

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Nancy L. Lancaster, Managing Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah state government. The Office of Administrative Rules, part of the Department of Government Operations, produces the *Bulletin* under authority of Section 63G-3-402.

The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at <https://rules.utah.gov/>. Any discrepancy between the PDF version and other versions will be resolved in favor of the PDF version.

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-957-7110. Additional rulemaking information and electronic versions of all administrative rule publications are available at <https://rules.utah.gov/>.

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit <https://rules.utah.gov/> for additional information.

Office of Administrative Rules, Salt Lake City 84114

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EXECUTIVE DOCUMENTS

Under authority granted by the Utah Constitution and various federal and state statutes, the Governor periodically issues **EXECUTIVE DOCUMENTS**, which can be categorized as either Executive Orders, Proclamations, and Declarations. Executive Orders set policy for the executive branch; create boards and commissions; provide for the transfer of authority; or otherwise interpret, implement, or give administrative effect to a provision of the Constitution, state law or executive policy. Proclamations call special or extraordinary legislative sessions; designate classes of cities; publish states-of-emergency; promulgate other official formal public announcements or functions; or publicly avow or cause certain matters of state government to be made generally known. Declarations designate special days, weeks or other time periods; call attention to or recognize people, groups, organizations, functions, or similar actions having a public purpose; or invoke specific legislative purposes (such as the declaration of an agricultural disaster).

The Governor's Office staff files **EXECUTIVE DOCUMENTS** that have legal effect with the Office of Administrative Rules for publication and distribution.

EXECUTIVE ORDER 2021-15

State Employee Leave For Mental and Emotional Health Treatment & Education

WHEREAS, mental health issues in the workplace have increased significantly over the past decade;

WHEREAS, mental health includes emotional, psychological, and social well-being, which affects how we think, feel, act, handle stress, relate to others, and make choices;

WHEREAS, caring for mental health allows us to maintain relationships, take care of ourselves, our families, our physical bodies, and respond and adapt to daily life challenges;

WHEREAS, the COVID-19 pandemic has amplified mental health challenges;

WHEREAS, work-related concerns left more than 40 percent of employees feeling hopeless, burned out or exhausted as they grappled with challenges due to the effects of the COVID-19 pandemic;

WHEREAS, 37% of employees state they haven't done anything to treat or cope with depression-related symptoms;

WHEREAS, during the course of the pandemic, there has been a 36% increase in calls to the Utah Crisis Line;

WHEREAS, not prioritizing mental health leads to devastating impacts on the well-being of employees with 61% of workers saying their productivity was affected by their mental health;

WHEREAS, in the United States roughly 217 million days are lost to absenteeism and presenteeism from mental health conditions every year;

WHEREAS, mental health and the well-being of state employees is critical to providing effective and high-quality service to the citizens of Utah;

NOW, THEREFORE, I, Spencer J. Cox, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the laws of the State of Utah, do hereby order the following:

1. Application

a. This executive order applies to all agencies that are subject to the rulemaking authority of the Division of Human Resource Management.

2. Definitions

a. As used in this order, "agency":

i. means a department, division, office, bureau, or other organization within the state executive branch, including the State Tax Commission, the National Guard, and the Board of Pardons and Parole; and

EXECUTIVE DOCUMENTS

- ii. does not include:
 - 1. an institution of higher education;
 - 2. the Utah Board of Higher Education;
 - 3. the State Board of Education;
 - 4. an independent entity as defined in Utah Code § 63E-1-102;
 - 5. the Attorney General's Office;
 - 6. the State Auditor's Office;
 - 7. the State Treasurer's Office; or
 - 8. the Legislative Branch.

b. "Division of Human Resource Management" means the Utah Division of Human Resource Management created in Title 63A, Chapter 17, Section 105.

3. Specific Requirements

a. Agencies

i. Effective January 1, 2022, all agencies shall allow a benefitted employee up to four (4) hours of Administrative Leave, as defined in Division of Human Resource Management rule, per fiscal year for mental health care and/or mental health care education, including but not limited to:

- 1. coordinated visit(s) with a licensed mental health professional;
- 2. group educational sessions;
- 3. professionally facilitated webinars hosted by mental health professionals;
- 4. self-assessment education created or led by mental health professionals; and
- 5. financial wellness programs.

i. An employee must receive supervisory approval before using leave for these purposes to minimize disruptions to operations, however a medical note for proof of attendance or participation is not required before or after the leave is used. The mental health treatment and education leave can be broken into hourly segments as long as the leave for this purpose does not exceed four hours.

ii. Effective immediately, agency management shall inform all department employees that pursuant to DHRM rule R477-7-4, agency management may approve the use of sick leave for "preventive health care," which includes mental health care.

b. The Division of Human Resource Management

i. The Division of Human Resource Management shall issue or amend rules to ensure implementation of this order.

This Order is effective immediately and shall remain in effect until otherwise modified, amended, rescinded, or superseded.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 12th of October 2021.

(State Seal)

Spencer J. Cox
Governor, State of Utah

ATTEST:

Deidre M. Henderson
Lieutenant Governor, State of Utah

2021/15/EO

End of the Executive Documents Section

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between September 16, 2021, 12:00 a.m., and October 01, 2021, 11:59 p.m. are included in this, the October 15, 2021, issue of the *Utah State Bulletin*.

In this publication, each **PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (example). Deletions made to existing rules are struck out with brackets surrounding them (~~example~~). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (.) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not usually printed. If a **PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Office of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least November 15, 2021. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through February 12, 2022, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

The public, interest groups, and governmental agencies are invited to review and comment on **PROPOSED RULES**. *Comment may be directed to the contact person identified on the **RULE ANALYSIS** for each rule.*

PROPOSED RULES are governed by Section 63G-3-301, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5a, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R27-1	Filing ID 53956

Agency Information

1. Department:	Government Operations	
Agency:	Fleet Operations	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141117	
City, state and zip:	Salt Lake City, UT 84114-1117	
Contact person(s):		
Name:	Phone:	Email:
Cory Weeks	801-957-7261	coryweeks@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R27-1. Definitions
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Subsequent to a five-year review, the Division of Fleet Operations determined that certain technical clarifying amendments are needed. In addition, technical changes are made to conform this rule with the Rulewriting Manual for Utah.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
Technical changes made in order to have administrative rules comply with current version of the Rulewriting Manual for Utah.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no impact to the state budget because the changes are only clarifying and technical.

B) Local governments:			
There is no impact to local governments because local governments do not fall within the scope of this rule.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
There is no impact to small businesses because small businesses do not fall within the scope of this rule.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
There is no impact to non-small businesses because non-small businesses do not fall within the scope of this rule.			
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):			
There is no impact to any other persons because no other persons fall within the scope of this rule.			
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):			
There are no compliance costs because the changes are only clarifying and technical.			
G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):			
Because this rule does not affect businesses, there should be no fiscal impact on businesses. Jenney Rees, Executive Director			
6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0

Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Government Operations, Jenney Rees, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Subsection 63A-9-401(1)(d)		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	11/15/2021
--	------------

10. This rule change MAY become effective on:	11/22/2021
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Cory Weeks, Director	Date:	09/15/2021
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R27. Government Operations, Fleet Operations.

R27-1. Definitions.

R27-1-1. Authority and Purpose.

(1) This rule is established pursuant to Subsection 63A-9-401(1)(d), which requires ~~[the Department of Government Operations, Division of Fleet Operations, to establish rules regarding the State Fleet.]~~ the division to create rules governing procedures and policies used for managing the state's vehicle fleet.

R27-1-2. Definitions.

~~[In addition to the terms defined in Section 63A-9-101, as used in Title 63A, Chapter 9, or these rules:]~~ (1) The following terms are defined for use under Title R27.

~~[(1)a] "Accident" means any [occurrence,] mishap in which a state vehicle is involved [in a mishap resulting], which results in harm or injury to persons, or damage to property, regardless of fault, total cost of treatments or repairs. [It may also be referred to as an incident.]~~

~~[(2) "Accident Review Committee (ARC)" means the panel formed by each agency to review accidents in which agency employees are involved and make a determination as to whether or not said accidents were preventable.~~

~~[(3) "ACD Codes" means the American Association of Motor Vehicle Administrators Code Dictionary Codes.]~~

~~[(4)b] "Agency" has the same meaning as provided in Subsections 63A-9-101(1)(a),(b), and (c).~~

~~[(5) "Agency Motor Vehicle Policy (AMV)" means any policy written by an agency that covers any agency specific needs involving the use of a state vehicle that are not addressed by state vehicle rules. Agencies shall not adopt policies that are less restrictive than the State vehicle rules.]~~

~~[(6)c] "Alternative Fuel Vehicle[s] (AFV)" means a [ny] vehicle designed and manufactured by an original equipment manufacturer [or a converted vehicle designed to operate either on a dual fuel, flexible fuel, or dedicated mode while using fuels other than gasoline or diesel] to operate on one or more fuels other than traditional gasoline or diesel fuel. Examples of alternative fuels include [types are] electricity, bio-diesel, [fossil fuel hybrids,] compressed natural gas, propane, hydrogen, methanol, ethanol, and any other vehicle fuel source approved by the [F]ederal government's Department of Energy (DOE). [AFVs shall be identified and tracked in the division's fleet information system.]~~

~~[(7)d] "Authorized Driver" means any agency employee, as defined in Section 63G-7-102, of an agency] who has been identified [by the agency in the division's Fleet Information System] as having the authority, within [his or her] their scope of employment, to operate a state vehicle on the agency's behalf. An authorized driver shall [who] hold[s] a valid driver license, [meets the necessary age restrictions,] and [has] shall successfully complete[d] the specific authorized driver training and other criteria required by the division, Risk Management, and [or] the employing agency for the vehicle type that will be operated. An a[A]uthorized d[D]river may also be referred to as operator, driver, employee, or customer.~~

~~[(8)e] "Authorized Passenger" means any state employee acting within the scope of their [his or her] employment, or any other person or animal whose transport is either necessary for the performance of the authorized driver's or passenger's employment duties, or has been pre-approved by the [appropriate department] agency head to accompany an authorized driver or passenger.~~

([9]f) "Capital~~[-only]~~ Lease ~~V[ehicle]~~" means any vehicle with a lease designed to recover the vehicle~~[-depreciation]~~ cost, ~~[-(vehicle cost less salvage value spread over the estimated useful life of the vehicle, less the incremental cost of Alternative Fuel Configuration), plus]~~The division also charges rates for administrative ~~[-overhead]-costs[-only]~~. Maintenance, repair, and safety recalls costs are the responsibility of the agency that leases the vehicle from the division. Capital~~[-only]~~ leases are subject to division approval.

([10]g) "Citizen Complaint[s]" means a complaint[s] ~~lodged~~reported by a citizen[s] ~~through~~to the division~~[-website]~~.

([11]h) "Commute Use" means use of a state vehicle by an employee driving between the employee's residence and the employee's assigned work location more than five calendar days per month. Commute ~~U~~se is subject to the Commuting Rule as outlined in IRS Publication 15-B.

~~[-(12) "Compressed Natural Gas Vehicle (CNG)" means any vehicle that may be fueled with compressed natural gas.]~~

([13]i) "Department" means the Department of Government Operations.

([14]j) "Division"~~[-has the same]~~ mean~~ing~~s the Division of Fleet Operations~~[-as provided by Section 63A-9-101(4)]~~.

([15]k) "Driver Eligibility Board~~[-(DEB)]~~" means the panel formed for the purpose of determining ~~[-a]an authorized driver's~~ state vehicle driving privileges.

~~[-(16) "Driver License Points" means points placed on a drivers record by the Department of Motor Vehicles in response to driving violations.]~~

([17]l) "Emergency Vehicle" means a~~ny~~ state vehicle which is primarily used for the purpose of providing law enforcement and public safety services, ~~as defined in Section 41-6a-102(3), or~~including fire services~~[-]~~ or emergency medical services.

([18]m)(i) "Employee" ~~has the same meaning as provided by Section 63G-7-102(2);~~includes:

(A) a governmental entity's officers, employees, servants, trustees, or commissioners;

(B) members of a governing body;

(C) members of a governmental entity's board;

(D) members of a governmental entity's commission;

(E) members of an advisory body, officers, and employees of a Children's Justice Center;

(F) student teachers holding a license issued by the State Board of Education;

(G) educational aides;

(H) students engaged in internships;

(I) volunteers as defined by Subsection 67-20-2(3); and

(J) tutors.

(ii) "Employee" includes the positions identified in Subsection (m)(i) whether or not the individual holding that position receives compensation.

(iii) "Employee" does not include an independent contractor.

([19]n) "Expansion ~~[Vehicle]~~" means an additional permanent vehicle requested by an agency~~any vehicle purchased when an agency requires an additional vehicle in order to complete the duties assigned to the requesting agency and will increase the size of the state fleet]~~. The purchase of an expansion vehicle requires legislative approval.

~~[-(20) "Extreme Duty Vehicle", a designation used for preventive maintenance purposes, means, but is not limited to, emergency vehicles and vehicles driven primarily off road.]~~

([21]o) "Feature" means any option or accessory that is available from the vehicle manufacturer.

~~[-(22) "Fixed costs" means, for the purposes of this rule, costs including depreciation, overhead, licensing, betterment, insurance, and title costs, as well as registration fees.]~~

~~[-(23) "Fleet Vehicle Advisory Committee" means the panel formed for the purpose of advising the division, after input from user agencies, as to the vehicle, included features, and equipment that will constitute the standard vehicle for each class in the fleet.]~~

~~[-(24) "FO number" means a vehicle specific number assigned to each state vehicle for tracking purposes.]~~

([26]p) "Full Service Lease" means a type of lease designed to recover ~~depreciation~~vehicles costs~~[-overhead]~~. The division also charges rates to cover administrative costs, maintenance and repair costs and ~~all~~other variable costs.

([27]q) "Heavy-duty Vehicle" means any motor vehicle having a gross vehicle weight ~~range~~rating (GVWR) greater than 26,001 pounds~~8,500 pounds. In addition to vehicles licensed for on road use, includes non-road vehicles, as defined in R27-1-2(30), with a GVWR greater than 8,500 pounds. Heavy duty vehicles shall be tracked in the division's fleet information system]~~.

([28]r) "Light-duty Vehicle" means any motor vehicle having a gross vehicle weight rating (GVWR) of 8,500~~10,000~~ pounds or less. ~~[-In addition to vehicles licensed for on road use, includes non-road vehicles, as defined in R27-1-2(30), with a GVWR of 8,500 pounds or less. Light duty vehicles shall be tracked in the division's fleet information system.]~~

(s) "Medium-duty Vehicle" means any motor vehicle having a GVWR of 10,001 to 26,000 pounds.

([29]t) "Miscellaneous Equipment" means any equipment, enhancement, or accessory that is installed on or in a motor vehicle by persons other than the original vehicle manufacturer, and other non-fleet related equipment. Includes~~[-but is not limited to,]~~ light bars, 800 MHz radios, transits, surveying equipment, traffic counters, semaphores, and diagnostic~~[-]~~-related equipment. Miscellaneous ~~E~~quipment shall be tracked in the division's fleet information system.

([30]u) "Motor Pool" ~~generally,~~means a centrally located group of state vehicles~~any vehicle]~~ that is made available to agencies for lease on a short-term basis.

([31]v)(i) "Motor Vehicle" has the same meaning as provided by~~in~~ Subsection 63A-9-101~~[(6)]~~.

([32]w) "Motor Vehicle Review Committee (MVRC)" means the committee created under Section 63A-9-301. ~~panel formed to advise the the division, as required by Subsection 63A-9-301(1). The duties of the MVRC are as specified in Section 63A-9-302.]~~

([33]x) "Moving Violation" means a breach of traffic laws which occurs while the driver's vehicle is in motion~~an infringement of the law while operating a moving vehicle]~~.

([34]y) "Non~~[-P]~~preventable Accident" means any occurrence involving a state vehicle which results in an accident~~an accident/incident]~~ in which everything that could have been reasonably done to prevent it was done and the accident~~incident]~~ still occurred. Non-preventable accidents shall include vandalism of state vehicles being used to conduct state business.

([35]z) "Non-road ~~[Vehicle]~~" means a vehicle, regardless of GVWR, that is not licensed for on-road use. [I]Non-road vehicles include~~s, but is not limited to,~~ vehicles used principally for construction, ~~and other non-transportation purposes.~~ G]golf carts, airplanes, farm tractors, snowmobiles, forklifts, off-highway vehicles, and boats~~[-are examples of vehicles in this category. Non-~~

road vehicles shall be tracked in the division's fleet information system].

~~[(36)]~~ "Other Equipment" means vehicles and equipment not specifically identified in other standard reporting categories.]

~~[(37)]~~ "Personal Use" means the use of a state vehicle to conduct an employee's personal affairs, not related to state business.

~~[(38)]~~ "Preventable Accident" means any occurrence involving a state vehicle, which results in property damage ~~[and]~~ or personal injury, regardless of who was injured, what property was damaged, to what extent, or where it occurred, in which the authorized driver in question failed to do everything that could have reasonably been done to prevent it.

~~[(a)]~~ Preventable accidents are not limited to collisions.

~~[(b)]~~ ~~As used in this rule, "p]~~ Preventable accidents[" include ~~], but are not limited to:~~ damage to the interior of the state vehicle due to improperly locked doors, smoke or burn damage caused by smoking in the vehicle, or lack of general care of the vehicle's interior.

~~[(39)]~~ "Preventive Maintenance (PM)" means vehicle services ~~[that are]~~ conducted at regular time intervals to deter mechanical breakdowns, including ~~], but not limited to,~~ lube, oil, and filter changes.

~~[(40)]~~ "Regular Duty Vehicle" a designation used for preventive maintenance purposes, means a vehicle that is driven primarily on paved roads under normal driving conditions.]

~~[(44)]~~ "Replacement ~~[e]~~Cycle" means the criteria established by the division to determine when the replacement of a state vehicle is necessary. ~~[A replacement cycle has a time and mileage element, and is established according to vehicle type and use.]~~

~~[(42)]~~ "Replacement ~~[v]~~Vehicle" means a vehicle purchased to replace a state vehicle that has met replacement cycle criteria.

~~[(43)]~~ "Service Level Agreement (SLA)" means an agreement, signed annually, between an agency and the division, in which the agency agrees to follow all rules, policies and procedures published by the division concerning the use of state vehicles. This document also clearly defines the level of service between the division and agencies.]

~~[(44)]~~ "SSFV" means a "Standard State Fleet Vehicle", which is the vehicle designated by the division as the default replacement vehicle for the state fleet.

~~[(25)]~~ "State Fuel Network" means the state program that provides an infrastructure for fueling state vehicles.

~~[(45)]~~ "State of Utah Fuel Card" means a purchase card ~~[issued]~~ assigned to a vehicle[s], a person or other motorized equipment by the State ~~[f]~~Fuel ~~[n]~~Network program, to be used when purchasing fuel. Fluids and minor miscellaneous items that may also be purchased with the fuel card["State of Utah Fuel Card"] cannot exceed the monthly monetary limits placed on such purchases by the division ~~[Fuel Network,]~~ unless otherwise authorized.

~~[(46)]~~ "State ~~[v]~~Vehicle" ~~[for the purposes of this rule, has the same meaning as provided by Subsection 63A-9-401(7).]~~ means each motor vehicle owned, operated, or in the possession of an agency, also to include any vehicle procured with state funds for state business, i.e. rental vehicle.

~~[(47)]~~ "Take-home Use" means use of a state vehicle by an employee driving a state vehicle between the employee's place of residence and the employee's assigned work location more than five calendar days per month. Take-home ~~u~~U]se is exempt from the Commuting Rule as outlined in IRS Publication 15-B.

~~[(48)]~~ "Unique Motorized Equipment" (UME) means high-cost vehicles and equipment such as trains; locomotives; airplanes; jets; mobile power stations and helicopters. Unique equipment shall be tracked in the division's fleet information system.]

~~[(49)]~~ "Variable ~~[e]~~Costs" means costs including, but ~~[are]~~ not limited to, fuel, oil, tires, services, repairs, maintenance, and PM~~[preventive maintenance]~~.

~~[(50)]~~ "Vehicle Identification Number (VIN)" means the number issued by the vehicle manufacturer to identify the vehicle in the event of a theft~~];~~ ~~[(t)]~~ This number can be found on the driver's side of the dashboard below the windshield.

~~[(54)]~~ "Vendor" means any person offering sales or services for state vehicles, such as PM~~[preventive maintenance]~~ or repair services.

KEY: definitions

Date of Last Change: ~~2021~~February 21, 2017

Notice of Continuation: October 20, 2020

Authorizing, and Implemented or Interpreted Law: 63A-9-401

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R27-2	Filing ID 53957
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Agency Information

1. Department:	Government Operations	
Agency:	Fleet Operations	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141117	
City, state and zip:	Salt Lake City, UT 84114-1117	
Contact person(s):		
Name:	Phone:	Email:
Cory Weeks	801-957-7261	coryweeks@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R27-2. Fleet Operations Adjudicative Proceedings

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

Subsequent to a five-year review, the Division of Fleet Operations determined that certain technical clarifying amendments are needed. In addition, technical changes are made to conform this rule with the Rulewriting Manual for Utah.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

Technical changes made in order to have administrative rules comply with current version of the Rulewriting Manual for Utah.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

This rule will have an indeterminate cost to state budgets. The reason the impact is indeterminate is because this rule will require processes taking work-hours for employees; however, the pay rates and the number of hours cannot be determined.

B) Local governments:

There is no impact to local governments because local governments do not fall within the scope of this rule.

C) Small businesses ("small business" means a business employing 1-49 persons):

There is no impact to small businesses because small businesses do not fall within the scope of this rule.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no impact to non-small businesses because non-small businesses do not fall within the scope of this rule.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no impact to any other persons because no other persons fall within the scope of this rule.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

Compliance will have an attached cost associated with work-hours impacting state budgets. Those amounts cannot be estimated.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

Because this rule does not affect businesses, there should be no fiscal impact on businesses. Jenney Rees, Executive Director

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
B) Department head approval of regulatory impact analysis:			
The Executive Director of the Department of Government Operations, Jenney Rees, has reviewed and approved this fiscal analysis.			

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 63G-4-102		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the

agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 11/15/2021

10. This rule change MAY become effective on: 11/22/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Cory Weeks, Director	Date:	09/15/2021
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R27. Government Operations, Fleet Operations. R27-2. Fleet Operations Adjudicative Proceedings. R27-2-1. Informal Proceedings.

(1) The following categories of proceedings are hereby designated as informal proceedings under Title 63G, Chapter 4, [the] Utah Administrative Procedures Act[, Section 63G-4-202]:

(a) Determinations regarding employee driving privileges for operation of division [Fleet Operations] vehicles within state government[.]; or

(b) Any agency action not exempted under the Administrative Procedures Act[, Section 63G-4-102 et seq].

(2) Procedures governing informal [adjudicatory] proceedings[.].

(a) No response need be filed to the notice of agency action or request for agency action.

(b) The agency shall hold a hearing only if a hearing is required by statute, or is permitted by statute and a request for agency action, otherwise, at the discretion of the agency head no hearing [will]shall be held.

(c) Only the parties named in the notice of agency action or request for agency action [will]may be permitted to testify, present evidence, and comment on the issues.

(d) A hearing [will]may be held only after timely notice of the hearing has been given.

(e) No discovery, either compulsory or voluntary, [will]may be permitted except that all parties to the action shall have access to information contained in the agency's files and investigatory information and materials not restricted by law.

(f) No person, as defined in [the Utah Administrative Procedures Act,] Subsection 63G-4-103(1)(g), may intervene in an agency action unless federal statute or rule requires the agency to permit intervention.

(g) Any hearing held under this rule is open to all parties.

(h)3) Within [thirty]30 days after the close of any hearing held under this rule, or after the failure of a party to request a hearing, the agency head shall issue a written decision stating the decision, the reasons for the decision, a notice of right of judicial review, and the time limits for filing an appeal to the appropriate district court.

(i)4) The agency head's decision shall be based on the facts in the agency file and, if a hearing is held, the facts based on evidence presented at the hearing.

(5) Decisions from the [D]division may be appealed to the [E]executive [D]director of the [Department of Government Operations]department.

(j)6) The agency shall notify [the]all parties of the agency order by promptly mailing a copy thereof to each at the address indicated in the file.

(k)7) Whether a hearing is held or not, an order issued under [the provisions of]this rule shall be the final order of the agency and may be appealed to the appropriate district court.

KEY: appellate procedures, administrative procedures

Date of Last Change: 2021[July 15, 1996]

Notice of Continuation: October 20, 2020

Authorizing, and Implemented or Interpreted Law: 63G-4-102

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R27-3	Filing ID	53958
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Agency Information

1. Department:	Government Operations	
Agency:	Fleet Operations	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129-2128	
Mailing address:	PO Box 141117	
City, state and zip:	Salt Lake City, UT 84114-1117	
Contact person(s):		
Name:	Phone:	Email:
Cory Weeks	801-957-7261	coryweeks@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R27-3. Vehicle Use Standards

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

Subsequent to a five-year review, the Division of Fleet Operations determined that certain technical clarifying amendments are needed. In addition, technical changes are made to conform this rule with the Rulewriting Manual for Utah.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

Technical changes made in order to have administrative rules comply with current version of the Rulewriting Manual for Utah.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is little impact to the state budget because the changes are only clarifying and technical. Any impact would come from agencies' time spent in ensuring enforcement. That time cannot be estimated.

B) Local governments:

There is no impact to local governments because local governments do not fall within the scope of this rule.

C) Small businesses ("small business" means a business employing 1-49 persons):

There is no impact to small businesses because small businesses do not fall within the scope of this rule.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no impact to non-small businesses because non-small businesses do not fall within the scope of this rule.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no impact to any other persons because no other persons fall within the scope of this rule.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are minimal compliance costs because the changes are only clarifying and technical. State government agencies will have an indeterminable cost associated with enforcement of this rule.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

Because this rule does not affect businesses, there should be no fiscal impact on businesses. Jenney Rees, Executive Director

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in

this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
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Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Government Operations, Jenney Rees, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Subsection 63A-9-401(1)(d)		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	11/15/2021
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10. This rule change MAY become effective on:	11/22/2021
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

Agency Authorization Information

Agency head or designee, and title:	Cory Weeks, Director	Date:	09/15/2021
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R27. Government Operations, Fleet Operations.**R27-3. Vehicle Use Standards.****R27-3-1. Authority and Purpose.**

(1) This rule is established pursuant to Subsection 63A-9-401(1)(d), which authorizes the division to establish the requirements for the use of state vehicles, including business and personal use practices, and commute standards.

(2) This rule defines the vehicle use standards for state employees while operating a state vehicle.

R27-3-2. Agency Contact.

(1) Each agency ~~[as defined in Section 63A-9-101]~~ shall appoint and designate, in writing, a main contact person from within the agency to act as a liaison between the division and the agency.

R27-3-3. Agency Authorization of Drivers.

(1) Agencies authorized to enter information into the division's fleet information system shall ~~[for each employee acting as an authorized driver, directly enter into the division's fleet information system, the following information]~~ enter the agency's authorized driver information into the division's fleet information system, to include the following:

- (a) ~~[D]~~ driver's name;
 - (b) ~~[D]~~ driver license number;
 - (c) ~~[S]~~ state that issued the driver license;
 - (d) ~~[E]~~ each Risk Management-approved driver training program ~~[(s)]~~ taken;
 - (e) ~~[D]~~ date each driver ~~[safety]~~ training program ~~[(s)]~~ was completed;
 - (f) ~~[F]~~ the type of vehicle used for ~~[that]~~ each ~~[safety]~~ training program ~~[is geared towards]~~.
- (2) Agencies without authorization to enter information into the division's fleet information system shall provide the information required in Subsection R27-3-3(1) to the division for entry into the division's fleet information system.
- (3) ~~[For the purposes of this rule, a]~~ Any employee whose fleet information system record does not have all of the information required in Subsection R27-3-3(1) shall be deemed unauthorized ~~[not to have the authority]~~ to drive state vehicles ~~[and shall not be allowed to drive either a monthly or a daily lease vehicle]~~.
- (4) To operate a state vehicle, authorized drivers ~~[employees]~~ whose names have been entered into the division's fleet information system ~~[as authorized drivers]~~ shall have:

(a) a valid driver license for the ~~[type and]~~ class of vehicle being operated; and

(b) completed an approved driver ~~[safety]~~ training course as required by the Division of Risk Management for the ~~[type or]~~ class of vehicle being operated; ~~[and]~~

~~[(c) met the age restrictions imposed by the division and the Division of Risk Management for the type or class of vehicle being operated.]~~

(5) Agencies shall develop and establish procedures to ensure that any ~~[individual]~~ employee listed as an authorized driver is not allowed to operate a state vehicle when the ~~[individual]~~ employee:

(a) does not have a valid driver license for the ~~[type or]~~ class of vehicle being operated; or

(b) has not completed all training ~~[and/or safety]~~ programs required by either the division or the Division of Risk Management for the ~~[type or]~~ class of vehicle being operated; ~~[or]~~

~~[(c) does not meet the age restrictions imposed by either the division or the Division of Risk Management for the type or class of vehicle being operated.]~~

(6) ~~[A driver license verification check]~~ The division shall ~~[be]~~ conduct ~~[ed]~~ a Utah driver license verification check on a regular basis ~~[in order]~~ to verify the validity ~~[status]~~ of the driver license of each authorized driver ~~[employee]~~ whose name appears in the ~~[the]~~ division's fleet information system ~~[as an authorized driver]~~. The agency is responsible for verifying the license of an authorized driver with a driver license issued outside of Utah.

(7) ~~[In the event that]~~ If an authorized driver is found not to have a valid driver license, the division shall notify the agency within three business days ~~[shall be notified, in writing]~~ of the results of the driver license verification check.

(8) Any ~~[individual]~~ employee ~~[who]~~ whose driver license has become invalid ~~[has been found not to have a valid driver license]~~ shall have ~~[his or her]~~ their authority to operate a state vehicle ~~[authorized state vehicle driving privileges]~~ immediately withdrawn.

(9) Any authorized driver ~~[employee]~~ who has an invalid driver license ~~[been found not to have a valid driver license]~~ shall not have the authority to operate a state vehicle reinstated until [such time as] the ~~[individual]~~ authorized driver provides proof to the division that ~~[his or her]~~ their driver license is once again valid.

(10) Authorized drivers shall operate a state vehicle in accordance with the restrictions or limitations imposed upon their ~~[respective]~~ driver license.

(11) Agencies shall comply with the requirements set forth in ~~[Risk Management General Rules, R37-1-8 (3) to]~~ Subsection R37-1-8 (9).

R27-3-4. Authorized and Unauthorized Use of State Vehicles.

(1) State vehicles shall only be used for official state business.

(2) Except in cases where it is customary to travel out of state ~~[in order]~~ to perform an employee's regular employment duties and responsibilities, the use of a state vehicle outside of the state ~~[State of Utah]~~ shall require the approval of the authorized driver's agency head ~~[of the director of the department that employs the individual]~~.

(3) The use of a state vehicle for travel outside of the continental ~~[U.S.]~~ United States shall require the approval of the director of the employing department, the director of the division, ~~[and]~~ the director of the Division of Risk Management and the governor's chief of staff. ~~[All]~~ [a] Approvals must be obtained at least ~~[thirty]~~ ~~[(30)]~~ days prior to the departure date. The employing

agency shall, prior to the departure date, provide the division and the Division of Risk Management with proof that proper automotive insurance has been obtained. The employing agency shall be responsible for any damage to vehicles operated outside of the United States regardless of fault.

(4) Unless otherwise authorized by the agency head, the following are examples of the unauthorized use of a state vehicle:

(a) ~~Transporting~~ family, friends, pets, associates, or other persons who are not state employees or are not serving the interests of the state;

(b) ~~Transporting~~ hitchhikers;

(c) ~~Transporting~~ acids, explosives, hazardous materials, flammable materials, and weapons and ammunition ~~except as authorized by federal and/or state laws~~. Otherwise, the transport of the above-referenced items or materials is ~~deemed~~ authorized when it is specifically related to employment duties;

(d) ~~Extending~~ the length of time that the state vehicle is in the operator's possession beyond the time needed to complete the official purposes of the trip;

~~(e) Operating or being in actual physical control of a state vehicle in violation of Section 41-6a-502, (Driving under the influence of alcohol, drugs or with specified or unsafe blood alcohol concentration), Section 53-3-231, (Person under 21 may not operate a vehicle with detectable alcohol in body), or an ordinance that complies with the requirements of Section 41-6a-510, (Local DUI and related ordinances and reckless driving ordinances).~~

~~(f) Operating~~ a state vehicle for personal use as defined in Subsection R27-1-2(37). Except for approved personal uses set forth in Section R27-3-5 and when necessary for the performance of employment duties, the use of a state vehicle for activities such as shopping, participating in sporting events, hunting, fishing, or any activity that is not included in the employee's job description, is not authorized; and

~~(g) Using~~ a state vehicle for personal convenience, such as when a personal vehicle is not operational.

~~(h) Pursuant to the provisions of Section R27-7-4(3) et seq., the unauthorized use of a state vehicle may result in the suspension or revocation of state driving privileges.~~

R27-3-5. Personal Use Standards.

(1) Personal use of state vehicles is not allowed without the direct authorization of the Legislature.

(2) An employee or representative of the state spending at least one night on approved travel to conduct state business may use a state vehicle in the general vicinity of the overnight lodging for the following approved activities:

(a) ~~Travel~~ to and from restaurants and stores for meals, breaks, and personal needs;

(b) ~~Travel~~ to and from grooming, medical, fitness, or laundry facilities; and

(c) ~~Travel~~ to and from recreational activities, such as to theaters, parks, or to the home of friends or relatives, provided the employee or representative has received prior approval for such travel from ~~his or her~~ their supervisor.

~~(d) Pursuant to the provisions of Section R27-7-4(3) et seq., the unauthorized personal use of a state vehicle may result in the suspension or revocation of state driving privileges.~~

R27-3-6. Application for Commute or Take-Home Use.

(1) ~~Each petitioning agency shall, for each driver being granted commute or take-home use privileges, annually submit an online spreadsheet from the division website. Authority is granted~~

~~when the agency executive director submits the spreadsheet form to the division designating his/her approval. Each petitioning agency shall be responsible for submitting names and applicable information to the division for authorized drivers granted commute or take-home privileges along with proof of the agency executive director's approval.~~

(2) The division shall enter the approved commute or take-home use request into the fleet information system and ~~provide an~~ shall make the assigned identification number available to both the driver and the agency.

(3) ~~All~~ Approvals for commute or take-home use privileges shall expire at the end of the calendar year ~~in~~ for which they were issued, ~~and the division shall notify the agency of said expiration. Agencies shall be responsible for submitting any request for annual renewal of commute or take-home use privileges.~~

~~(4) Commute use is considered a taxable fringe benefit as outlined in IRS publication 15-B. All approved commute use drivers shall be assessed the IRS imputed daily fringe benefit rate while using a state vehicle for commute use.~~

~~(5) For each individual with commute use privileges, the employing agency shall, pursuant to Division of Finance Policy FIACCT 10-01.00, prepare an Employee Reimbursement/Earnings Request Form and enter the amount of the commute fringe benefit into the payroll system on a monthly basis, or the Division of Finance will apply, for each working day in that month, the appropriate commute fringe benefit.~~

~~(6) Take home use is not a taxable fringe benefit as outlined in IRS publication 15-B. All authorized take home use drivers must submit an explanation form to the division identifying the driver, vehicle, and reason for the exemption according to IRS publication 15-B.~~

~~(4) Agencies are responsible for notifying the division when adjustments to approvals need to be made, including terminations and reassignments.~~

R27-3-7. Criteria for Commute or Take-Home Use Approval.

(1) An agency executive director may approve commute or take-home use when one or more of the following conditions exist:

(a) "24-hour ~~On-call~~ Emergency ~~On-Call~~." ~~Where~~ When the agency clearly demonstrates that the nature of a potential emergency is such that an increase in response time, if a commute or take-home use privilege is not authorized, could endanger a human life or cause significant property damage. Each driver is required to keep a complete list of ~~all~~ call-outs, ~~for renewal of the commute or take home use privilege the following year. Agencies may use the division's online forms to track commute or take-home mileage.~~ The authorized driver shall create and maintain a trip log beginning with the first trip of the day and ending with the last trip of the day for commute use vehicles. The trip log must contain at least the starting and ending points of the commute;

(b) Virtual ~~Office~~. ~~When~~ ~~in~~ the agency clearly demonstrates that an employee is required to work out of a vehicle a minimum of ~~eighty~~ ~~80%~~ ~~percent~~ of the time and the assigned vehicle is required to perform the critical duties assigned to the employee;

(c) Practicality. When the agency clearly demonstrates that it is more practical for the employee to go directly to an alternate work site rather than report to a specific office to pick up a state vehicle;

(d) Compensation Vehicle. When a vehicle is provided to appointed or elected government officials who are specifically

allowed by law to have an assigned vehicle as part of their compensation package.

~~[(2) The trip log must be created for the first and last trip of the day for all commute use vehicles.]~~

R27-3-8. Exemptions from IRS~~[-]~~Imputed Daily Fringe Benefits.

(1) ~~[In accordance with IRS publication 15-B, employees with an individual permanently assigned commute use vehicle are subject to the IRS Commuting Rule. Exemptions from the Commuting Rule for take-home use must be in accordance with IRS Publication 15-B and approved by the agency. In these cases, the agency must notify the division and the Division of Finance, or the employee will automatically have the fringe benefit added to the employee's income.]~~ Commute use is considered a taxable fringe benefit as outlined in 26 CFR 1.61-21. Approved commute use drivers shall be assessed the IRS-imputed daily fringe benefit rate while using a state vehicle for commute use. The division shall notify the Division of Finance of this authorization. The Division of Finance shall then enter the authorized driver's commute fringe benefit into the payroll system.

(2) Exemptions from the Commuting Rule for take-home use must be in accordance with 26 CFR 1.61-21 and must be approved by the employing agency. Any agency with an exemption to the Commuting Rule must maintain a file justifying the exemption and must be prepared to explain the agency's position in the case of an IRS audit.

R27-3-9. Enforcement of Commute, Take~~[-home]~~Home, and Personal Use Standards.

(1) Agencies with drivers who have been granted commute, take-home, or personal use privileges shall establish internal policies to enforce the commute, take-home, and personal use standards established in this rule, in IRS internal revenue bulletins, and in 26 CFR 1.61-21. Agencies shall not adopt policies that are less stringent than the standards established in this rule.

(2) Agencies are responsible for keeping appropriate records, including call out and trip logs where applicable.

~~[(2)]~~ Commute, take~~[-]~~home, or personal use that is unauthorized shall result in the suspension or revocation of the commute, take-home, or personal use privilege by the agency. Additional instances of unauthorized commute or take-home use may result in the suspension or revocation of the state driving privilege by the agency.

R27-3-10. Use Requirements for Monthly Lease Vehicles.

(1) Agencies that ~~[have requested and received monthly lease options on state vehicles]~~ lease state vehicles from the division on a monthly basis shall:

(a) ~~[E]~~ensure that only authorized drivers operate ~~[monthly lease]~~the vehicles~~[-]~~;

(b) ~~[R]~~report the correct odometer reading when refueling the vehicle. ~~[In the event that]~~If an incorrect odometer reading is reported, agencies ~~[shall]~~may be assessed a fee whenever the agency fails to correct the mileage within three ~~[(3)]~~business days of the agency's receipt of the notification that the incorrect mileage was reported. When circumstances indicate that there was an intentional falsification of the vehicle's actual odometer reading at the time of refueling, a fee ~~[shall]~~may be assessed to the agency even ~~[though]~~if the agency corrected the error~~[- within three (3) days of the notification.]~~;

(c) ~~[R]~~return the vehicle to the division in good repair and in clean condition at the completion of the replacement cycle period or when the agency and the division have agreed to return the vehicle~~[vehicle has met the applicable mileage criterion]~~ for replacement, reassignment, or reallocation~~[-]~~;

(i) Agencies shall be assessed ~~[a]~~the total cost of the detailing fee for returned vehicles ~~[returned]~~that ~~[are in]~~need ~~[of]~~ extensive cleaning~~[-]~~; and

(ii) Agencies shall pay the insurance deductible associated with repairs made to a vehicle that ~~[is]~~has been damaged~~[-when returned]~~.

(d) ~~[R]~~return the vehicle unaltered and in conformance with the manufacturer's specifications~~[-]~~ with the exception of agencies whose jobs require altering of the vehicle. The agency and the division will come to a written agreement as to which alterations can be made to the division's vehicles;

(e) ~~[P]~~pay the applicable insurance deductible ~~[in the event that]~~if a monthly lease vehicle in ~~[its]~~their possession or control is involved in an accident~~[-]~~;

(f) ~~[N]~~not place advertising or bumper stickers on state vehicles without prior approval of the division.

(2) ~~[The provisions of Rule]~~Section R27-4-9 shall govern agencies when requesting a monthly lease.

(3) Under no circumstances shall the total number of occupants in a monthly lease full-size passenger van exceed ~~[ten (10) individuals,]~~the maximum number of occupants recommended by the manufacturer or the Division of Risk Management.

R27-3-11. Use Requirements for Daily Motor Pool Vehicles.

(1) The division, at select locations, offers state vehicles for use on a daily basis at an approved daily rental rate. ~~[Drivers of]~~Authorized drivers renting a state vehicle offered through the daily pool shall:

~~[(a)]~~ Be an authorized driver in accordance with R27-1-2(7). ~~In the event that any of the information required by R27-3-3(1) has not been entered in the division's fleet information system, the rental vehicle will not be released.]~~

~~[(b)]~~a) ~~[R]~~read ~~[the handouts,]~~and obey any instructions provided by the division, containing information regarding the safe and proper operation of the vehicle being leased. Use and rental of the vehicle;

~~[(e)]~~b) ~~[V]~~verify the current condition of~~[-]~~and acknowledge responsibility for the care of the vehicle prior to rental by filling out the daily motor pool rental form provided by daily rental personnel; the rental vehicle and notify the division of any current damages and any damages that occur during the rental period;

~~[(d)]~~c) ~~[R]~~report the correct odometer reading when refueling the vehicle at authorized refueling sites, and when the vehicle is returned. ~~[In the event that]~~If an incorrect odometer reading is reported, agencies ~~[shall]~~may be assessed a fee whenever the agency fails to correct the mileage within three ~~[(3)]~~business days of the agency's receipt of the notification that the incorrect mileage was reported. When circumstances indicate that there was an intentional falsification of the vehicle's actual odometer reading at the time of refueling, a fee ~~[shall]~~may be assessed to the agency even ~~[though]~~if the agency corrected the error~~[- within three (3) days of the notification.]~~;

~~[(e)]~~d) ~~[R]~~return vehicles with a full tank of fuel. Agencies shall be assessed a fee for vehicles that are returned with less than a full tank of fuel~~[-]~~;

~~[(f)]~~e) ~~[R]~~return rental vehicles in good repair and in clean condition~~[-]~~;

(i) ~~[A]~~agencies shall be assessed a detailing fee for ~~returned~~ vehicles ~~[returned]~~ that ~~[are in]~~ need ~~[of]~~ extensive cleaning~~[-]~~; and

(ii) ~~[A]~~agencies shall pay the insurance deductible associated with repairs made to a vehicle that is damaged when returned.

~~[(g)]~~ ~~[C]~~all to extend the reservation ~~[in the event that]~~ if they need to keep rental vehicles longer than scheduled. Agencies shall be assessed a late fee, in addition to applicable daily rental fees, for vehicles that are not returned on time~~[-]~~;

~~[(h)]~~ ~~[U]~~se their best efforts to return rented vehicles during regular office hours. Agencies may be assessed a late fee equal to one day's rental for vehicles that are not returned on time~~[-]~~;

~~[(i)]~~ ~~[E]~~call the daily pool location, at least one hour before the scheduled pick-up time, to cancel the reservation. Agencies shall be assessed a fee for any unused reservation that has not been canceled~~[-]~~;

~~[(j)]~~ ~~[N]~~ot place advertising or bumper~~[s]~~ stickers on state vehicles without prior approval from the division.

(2) The vehicle shall be inspected upon its return. The agency shall either be held responsible for any damages not acknowledged prior to rental, or any applicable insurance deductibles associated with any repairs to the vehicle.

(3) Agencies are responsible for paying ~~[all]~~ applicable insurance deductibles whenever a vehicle operated by an authorized driver is involved in an accident.

(4) The division shall hold items left in daily rental vehicles for ten ~~[(10)]~~ days. Items not retrieved within the ten-day period shall be turned over to the State Surplus Property Program for sale or disposal.

R27-3-12. Lease criteria for Daily Motor Pool Sedans, Four[-] Wheel[-] Drive Sport Utility Vehicles (4x4 SUVs), Cargo Vans, Multi-Passenger Vans, and Alternative Fuel Vehicles[-] Lease Criteria.

(1) The ~~[standard state vehicle]~~ SSFV is a compact sedan, ~~[and]~~ which shall be the vehicle type most commonly used when conducting state business.

(2) Requests for vehicles other than a compact sedan may be honored in instances where the agency ~~[and]~~ or driver is able to identify a specific need in accordance with Subsection R27-4-4(4).

(a) Requests for a ~~[four wheel drive sport utility vehicle]~~ ~~[(4x4 SUV)]~~ may be granted with written approval from an employee's supervisor~~[-]~~; and

~~[(b)]~~ ~~Requests for a seven passenger van may be granted in the event that the driver is going to be transporting more than three (3) authorized passengers.~~

~~[(e)]~~ ~~[R]~~requests for full-size passenger vans may be granted ~~[in the event that]~~ if the driver is going to be transporting more than ~~[(6)]~~ six authorized passengers. Under no circumstances shall the total number of occupants exceed the maximum number of passengers recommended by the manufacturer or the Division of Risk Management.

(3) Cargo vans shall be used to transport cargo only. Passengers shall not be transported in the cargo area ~~[-of said vehicles-]~~

(4) ~~[Non-traditional (a)]~~ Alternative fuel shall be, when practical, the primary fuel used when driving a bi-fuel or dual~~[-]~~ fuel state vehicle. ~~[Drivers shall, when practicable, use an alternative fuel when driving a bi-fuel or dual-fuel state vehicle.]~~

R27-3-13. Alcohol and Drugs.

(1) While under the influence or with any detectable amount of alcohol, illegal drugs, or impairment from legal medication in their body, ~~[N]~~no authorized driver shall operate or be in actual physical control of a ~~[S]~~ state vehicle ~~[in violation of Section 41-6a-502, any ordinance that complies with the requirements of Section 41-6a-510, or Section 53-3-231].~~

(2) No operator of a state vehicle shall transport alcohol or illegal drugs of any type in a ~~[S]~~ state vehicle unless they are:

(a) ~~[Sworn peace]~~ a law enforcement officer~~[s]~~, as defined in Section 53-13-10~~[2]~~ ~~[3]~~, in the process of investigating criminal activities;

(b) ~~[E]~~ an employee~~[s]~~ of the ~~[the]~~ Department of Alcoholic Beverage Control conducting business within the guidelines of their daily operations; or

(c) an investigator~~[s]~~ for the Department of Commerce in the process of enforcing ~~[the provisions of]~~ Title 58, Chapter 37, Utah Controlled Substances Act.

(3) Except as provided in Subsection R27-3-13(2), ~~[above,]~~ any ~~[individual]~~ authorized driver who uses a state vehicle for the transportation of alcohol or drugs may have ~~[his or her]~~ their state driving privileges withdrawn, suspended, or revoked.

R27-3-14. Violations of Motor Vehicle Laws.

(1) Authorized drivers shall obey ~~[all]~~ motor vehicle laws while operating a state vehicle.

(2) Any authorized driver who, while operating a state vehicle, receives a citation for violating a motor vehicle law shall immediately report the receipt of the citation to their respective supervisor. Failure to report the receipt of a citation may result in the withdrawal, suspension, or revocation of ~~[S]~~ state driving privileges.

(3) Any authorized driver who receives a citation for violating a motor vehicle law while operating a state vehicle shall attend an additional Risk Management-approved mandatory defensive driver training program. ~~[The f]~~ Failure to attend the additional mandatory defensive driver training program shall result in the loss of state driving privileges.

(4) Any authorized driver who receives a citation for a violation of motor vehicle laws~~[-]~~ shall be personally responsible for paying fines associated with ~~[any and all]~~ citations. ~~[The f]~~ Failure to pay fines associated with citations for the violation of motor vehicle laws ~~[may]~~ shall result in the loss of state driving privileges.

(5) Any ~~[individual]~~ employee on the list of authorized drivers who is convicted of ~~[D]~~ driving ~~[U]~~ under the ~~[H]~~ influence of alcohol or drugs (DUI), ~~[R]~~ reckless ~~[D]~~ driving, or any felony in which a motor vehicle is used, either on~~[-duty]~~ or off~~[-]~~ duty, and whether in the state vehicle or their personal vehicle, may have ~~[his or her]~~ their state driving privileges withdrawn, suspended, or revoked.

R27-3-15. Seat Restraint Use.

(1) ~~[All operators]~~ Authorized drivers and passengers in state vehicles shall wear seat belt restraints while in ~~[a]~~ the ~~[moving]~~ vehicle.

(2) ~~[All e]~~ Children being transported in state vehicles shall be placed in proper safety restraints for their age and size as stated in Section 41-6a-1803.

R27-3-16. Driver Training.

(1) ~~[Any individual]~~ An authorized driver shall, prior to the use of a state vehicle, complete all training required by the Division of Risk Management, including~~[-but not limited to-]~~ the defensive

driver training program offered through the Division of Risk Management [(f)or an approved equivalent].

(2) Each agency shall coordinate with the Division of Risk Management to provide specialty training for vehicles known to possess unique safety concerns.

(3) Each agency shall require that ~~[all] employees [who possess a valid driver license to operate a state vehicle, or their own vehicles, on state business as an essential function of the job]~~ ~~[or all other employees who operate vehicles as part of the performance of state business, comply with the requirements of Division of Risk Management rule R37-1-8(5)].~~

(4) Agencies shall maintain a list of ~~[all]~~ employees who have completed the training courses required by the division, the Division of Risk Management, and their respective agency.

(5) Employees operating state vehicles must have the correct license and any special endorsements required for the vehicle they are operating ~~[and any special endorsements required in order to operate specialty vehicles].~~

R27-3-17. Smoking in State Vehicles.

(1) ~~[All]~~ State vehicles are designated as "nonsmoking". Agencies shall be assessed fees for any damage and detailing costs incurred as a result of smoking in vehicles.

KEY: state vehicle use

Date of Last Change: 2021 ~~February 21, 2017~~

Notice of Continuation: October 20, 2020

Authorizing, and Implemented or Interpreted Law: 63A-9-401(1)(d)

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R68-30	Filing ID 53989
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Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Street address:	350 N Redwood Road	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 146500	
City, state and zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2204	ambermbrown@utah.gov
Cody James	801-982-2376	codyjames@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R68-30. Independent Cannabis Testing Laboratory

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

A change is needed to this rule because, through management of the program, the Department of Agriculture and Food (Department) has learned that it is difficult for laboratories to obtain ISO certification within 18 months of becoming licensed as required by this current rule.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

Subsection R68-30-4(8)(b) has been updated to allow an independent cannabis testing laboratory to become licensed and obtain ISO certification within 24 months.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

This change will not have an impact on the state budget. The cost of administering or participating in the cannabis program will not change.

B) Local governments:

This change will not impact local governments because they do not participate in or administer the medical cannabis program.

C) Small businesses ("small business" means a business employing 1-49 persons):

This change will make it easier for small businesses to become licensed laboratories and will not fiscally impact them.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

This change will make it easier for non-small businesses to become licensed laboratories and will not fiscally impact them.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency):**

Other persons do not participate in the medical cannabis program and will not be impacted by the change.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

Compliance costs for affected persons will not be impacted by this change. The fees charged by the Department will not change.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

This rule change will not have a fiscal impact on businesses. Craig W. Buttars, Commissioner

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Commissioner of the Utah Department of Agriculture and Food, Craig W. Buttars, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 4-41a-103	Section 4-41a-405	Section 4-41a-801
Section 4-41a-302	Section 4-41a-701	Section 4-41a-404

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 11/15/2021

10. This rule change MAY become effective on: 11/22/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Craig W. Buttars, Commissioner, Utah Department of Agriculture and Food	Date:	09/23/2021
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R68. Agriculture and Food, Plant Industry.

R68-30. Independent Cannabis Testing Laboratory.

R68-30-1. Authority and Purpose.

1) Pursuant to Subsections 4-41a-103(5), 4-41a-302(3)(b)(ii), 4-41a-404(3), 4-41a-405(2)(b)(iv), 4-41a-701(3), 4-41a-801(1), and 4-2-103(1)(i), this rule establishes the application process, qualifications, and requirements to obtain and maintain an independent cannabis testing laboratory license.

R68-30-2. Definitions.

1) "Applicant" means any person or business entity who applies for a cannabis processing facility license.

2) "Batch" means a quantity of:

a) cannabis extract produced on a particular date and time, following clean up until the next clean up during which lots of cannabis are used;

b) cannabis product produced on a particular date and time, following clean up until the next clean up during which cannabis extract is used; or

c) cannabis flower packaged on a particular date and time, following clean up until the next clean up during which lots of cannabis are being used.

3) "Cannabis" means any part of a marijuana plant.

4) "Cannabis cultivation facility" means a person that:

a) possesses cannabis;

b) grows or intends to grow cannabis; and

c) sells or intends to sell cannabis to a cannabis cultivation facility or to a cannabis processing facility.

5) "Cannabis processing facility" means a person that:

a) acquires or intends to acquire cannabis from a cannabis production establishment or a holder of an industrial hemp processor license under ~~[t]Title 4 [e]Chapter 41, Hemp and Cannabi[diol]noid Act;~~

b) possesses cannabis with the intent to manufacture a cannabis product;

c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or the state central fill medical cannabis pharmacy.

6) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

a) authorizes an individual to act as a cannabis production establishment agent; and

b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

7) "Department" means the Utah Department of Agriculture and Food.

8) "Independent cannabis testing laboratory" means a person who:

a) conducts a chemical or other analysis of cannabis or a cannabis product; or

b) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

9) "Independent cannabis testing laboratory agent" means an individual who:

a) is an employee of an independent cannabis testing laboratory; and

b) holds a valid cannabis production establishment agent registration card.

10) "Lot" means the quantity of:

a) flower produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or

b) trim, leaves or other plant matter from cannabis plants produced on a particular date and time, following clean up until the next clean up.

R68-30-3. Independent Testing Laboratory License.

1) An independent testing laboratory license allows the licensee to receive cannabis from a licensed cannabis cultivation facility to conduct testing as required by Subsection 4-41a-701(2) and ~~[Utah Admin. Code]Rule R68-29.~~

2) An independent testing laboratory license allows the licensee to receive cannabis from a licensed cannabis processing facility to conduct testing as required by Subsection 4-41a-701(2) and ~~[Utah Admin. Code]Rule R68-29.~~

3) An independent testing laboratory license allows the licensee to receive cannabis from a licensed cannabis cultivation

facility and a cannabis processing facility to conduct the additional test as requested.

4) A complete application shall include the required fee, statements, forms, diagrams, operation plans, and other applicable documents required in the application packet to be accepted and processed by the department.

5) Prior to approving an application, the department may contact any applicant and request additional supporting documentation or information.

6) Prior to issuing a license, the department shall inspect the proposed premises to determine if the applicant complies with state laws and rules.

7) The department may conduct face-to-face interviews with an applicant if needed to determine the best-qualified applicant for the number of licenses needed.

8) The license shall expire ~~[twelve]~~12 months from the date on which the license is issued.

9) An application for renewals shall be submitted to the department no later than 30 days prior to the license expiration date.

10) If the renewal application is not submitted 30 days prior to the expiration date the licensee may not continue to operate.

11) A license may not be sold or transferred.

R68-30-4. Independent Cannabis Testing Laboratory Requirements.

1) An independent testing laboratory shall employ a scientific director responsible for:

a) ensuring that the laboratory achievement and maintenance of quality standards of practice; and

b) supervising laboratory staff.

2) The scientific director for an independent laboratory shall have:

a) a doctorate in chemical or biological sciences from an accredited college or university and have at least 2 years of post-degree laboratory experience;

b) a master's degree in chemical or biological sciences from an accredited college or university and have at least 4 years of post-degree laboratory experience; or

c) a bachelor's degree in chemical or biological sciences from an accredited college or university and have a least 6 years of post-degree laboratory experience.

3) An independent cannabis testing laboratory shall follow validated analytical methods, such as those published by the Association of Official Agricultural Chemists (AOAC), American Herbal Pharmacopoeia, EPA, FDA, or other reputable scientific organizations or notify the department of alternative scientifically valid testing methodology the lab is following for each required test.

4) An independent cannabis testing laboratory may not use an alternative testing method without prior review from the department.

5) The department shall review any monograph or analytical method followed by an independent cannabis testing laboratory to ensure the methodology produces scientifically accurate results prior to the use of alternative testing methods to conduct the required tests.

6) An independent cannabis testing laboratory shall establish written standard operating procedures for each test being conducted.

7) An independent cannabis testing laboratory shall obtain and keep the International Organization for Standardization (ISO) 17025:2017 accreditation.

8) An independent cannabis testing laboratory may be licensed prior to ISO 17025:2017 accreditation provided the independent cannabis testing laboratory:

a) adopt and follow minimum good laboratory practices which satisfy the OECD Principles of Good Laboratory Practice and Compliance Monitoring published by the Organization for Economic Co-operation and development; and

b) becomes ISO 17025:2017 accredited within ~~[48]~~24 months.

9) The department incorporates the following materials by reference:

a) Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control (2014 Revisions) published by the American Herbal Pharmacopoeia; and

b) OECD Principles of Good Laboratory Practice and Compliance Monitoring (1997) published by the Organization for Economic Co-operation and Development.

10) An independent cannabis testing laboratory shall have written emergency procedures to be followed in case of:

a) fire;

b) chemical spill; or

c) other emergencies at the laboratory.

11) An independent cannabis testing laboratory shall compartmentalize ~~[all areas]~~each area in the facility based on function and shall limit access to the compartments to the appropriate authorized agents.

R68-30-5. Security Requirements.

1) At a minimum, a licensed independent cannabis testing laboratory shall have a security alarm system on ~~[all perimeter entry points]~~each perimeter entry point and perimeter window[s].

2) At a minimum, a licensed independent cannabis testing laboratory shall have complete video surveillance system:

a) with minimum camera resolution of 640 x 470 pixels or pixel equivalent for analog, and

b) that retains footage for at least 45 days;

3) ~~[All]~~Cameras shall:

a) be fixed and placement shall allow for the clear and certain identification of any person and activities in controlled areas; and

b) record continuously.

4) Controlled areas included:

a) ~~[all]~~entrances and exits;

b) ~~[all]~~any areas where cannabis or cannabis products are stored[⁷];

c) ~~[all]~~any areas where cannabis or cannabis products are being tested[⁷]; and

d) ~~[all]~~any areas where cannabis waste is being moved, processed, stored or destroyed.

5) If an independent cannabis testing facility stores footage locally, the surveillance system storage device shall be secured in the facility in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft.

6) If an independent cannabis testing laboratory stores footage on a remote server, access shall be restricted to protect from employee tampering.

7) Any entry point must be lighted in low-light conditions sufficient to record activity occurring.

8) ~~[All]~~Any visitors to an independent cannabis testing laboratory shall be required to have a properly displayed identification badge issued by the facility at all times while on the premises of the facility.

9) ~~[All]~~Any visitors shall be escorted by an independent cannabis facility agent at all times while in the facility.

10) An independent cannabis testing laboratory shall keep and maintain a visitor's log showing:

a) the full name of each visitor entering the facility;

b) the badge number issued;

c) the time of arrival;

d) the time of departure, and

e) the purpose of the visit.

11) The independent cannabis testing laboratory shall keep the visitors log for a minimum of a year.

12) The independent cannabis testing laboratory shall make the visitor log available to the department upon request.

R68-30-6. Inventory Control.

1) Each test sample shall have a unique identification number in the inventory control system.

2) Each test sample shall be traceable to the lot or batch used as the base material from the cannabis production establishment.

3) Unique identification numbers may not be reused.

4) Each test sample that has been issued a unique identification number shall have a physical tag placed on it with:

a) the unique identification number;

b) the license number and name of the lab receiving the test sample;

c) the license number and name of the cannabis production establishment name;

d) the date the test sample was collected; and

e) the weight of the sample.

5) The tag shall be legible and placed in a position that can be clearly read and shall be kept free from dirt and debris.

6) The following shall be reconciled in the inventory control system at the close of business each day:

a) the date and time the test sample was received;

b) ~~[all samples]~~each sample used for testing and the test results;

c) the identity of the agent conducting the test;

c) a complete inventory of cannabis test samples;

d) the weight and disposal of cannabis waste materials;

e) the identity of who disposed of the cannabis waste; and

f) the theft or loss or suspected theft or loss of test sample.

7) An independent cannabis testing laboratory shall document in the inventory tracking system any test samples received, and any difference between the quantity specified in the transport and quantities received.

R68-30-7. Independent Cannabis Testing Laboratory Agents.

1) An independent cannabis testing laboratory shall apply to the department for a cannabis establishment agent on a form provided by the department.

2) An application is not considered complete until the background check has been completed and the independent cannabis testing laboratory has paid the registration fee.

3) The cannabis establishment agent registration card shall contain:

a) the agent's full name;

b) the name of the cannabis processing establishment; and

c) a photograph of the agent.

4) An independent cannabis testing laboratory is responsible to ensure that ~~[all agents have]~~each agent has received:

a) the department approved training as specified in ~~[Utah Code]~~Section 4-41a-301; and

b) any task-specific training as outlined in the operating plan submitted to the department.

5) An independent cannabis testing agent shall have a properly displayed identification badge which has been issued by the department ~~[at all times]~~ while on the facility premises or while engaged in the transportation of cannabis.

6) ~~[All-e]~~ Cannabis production establishment agents shall have their state-issued identification card in their possession to certify the information on their badge is correct.

7) An agent's identification badge shall be returned to the department immediately upon termination of their employment with the independent cannabis testing laboratory.

R68-30-8. Transportation.

1) A printed transport manifest shall accompany every transport of cannabis.

2) The manifest shall contain the following information:

a) the cannabis production establishment address and license number of the departure location;

b) physical address and license number of the receiving location;

c) strain name, quantities by weight, and unique identification numbers of each cannabis material to be transported;

d) date and time of departure;

e) estimated date and time of arrival; and

f) name and signature of each agent accompanying the cannabis.

3) The transport manifest may not be voided or changed after departing from the original cannabis production establishment.

4) A copy of the transport manifest shall be given to the independent laboratory.

5) The receiving independent laboratory shall ensure that the cannabis material received is as described in the transport manifest and shall record the amounts received for each strain into the inventory control system.

6) The receiving independent laboratory shall document at the time of receipt any differences between the quantity specified in the transport manifest and the quantities received in the inventory control system.

7) During transport an independent cannabis testing laboratory agent shall ensure the cannabis is:

a) shielded from the public view;

b) secured; and

c) temperature controlled if perishable.

8) An independent cannabis testing laboratory shall contact the department within 24 hours if a vehicle transporting cannabis is involved in an accident that involves product loss.

9) Only the registered agents of the independent cannabis testing laboratory may occupy a transporting vehicle.

R68-30-9. Cannabis Waste Disposal.

1) Solid and liquid wastes generated during cannabis testing shall be stored, managed, and disposed of in accordance with applicable state laws and regulations.

2) Waste water generated during cannabis testing shall be disposed of in compliance with applicable state laws and regulations.

3) Cannabis waste generated from the cannabis plant, trim, and leaves are not considered hazardous waste unless it has been treated or contaminated with a solvent, or pesticide.

4) ~~[All-e]~~ Cannabis waste shall be rendered unusable prior to leaving the independent cannabis testing laboratory.

5) Cannabis waste, which is not designated as hazardous, shall be rendered unusable by grinding and incorporating the cannabis waste with other ground materials so the resulting mixture is at least ~~[fifty percent]~~ 50% non-cannabis waste by volume or other methods approved by the department before implementation.

6) Materials used to grind and incorporate with cannabis fall into two categories:

a) compostable; or

b) non-compostable.

7) Compostable waste is cannabis waste to be disposed of as compost or in another organic waste method mixed with:

a) food waste;

b) yard waste; or

c) vegetable-based grease or oils.

8) Non-compostable waste is cannabis waste to be disposed of in a landfill or another disposal method, such as incineration, mixed with:

a) paper waste;

b) cardboard waste;

c) plastic waste; or

d) soil.

9) Cannabis waste includes:

a) cannabis plant waste including roots, stalks, leaves, and stems;

b) excess cannabis or cannabis products from any quality assurance testing;

c) cannabis or cannabis products that fail to meet testing requirements; and

d) cannabis or cannabis products subject to a recall.

R68-28-10. Change in Operation Plans.

1) An independent cannabis testing laboratory shall submit a notice, on a form provided by the department, prior to making any changes to:

a) ownership or financial backing of the facility;

b) the facility's name;

c) a change in location;

d) change in testing methods, equipment, remodeling, expansion, reduction or physical, non-cosmetic alteration of the lab; or

e) change in written operating procedures.

2) An independent cannabis testing laboratory may not implement changes to the approved operation plan without department approval.

3) The department shall respond to the request for changes within 15 business days.

4) The department shall approve of requested changes unless approval would lead to a violation of the applicable laws and rules of the state.

5) The department shall specify the reason for the denial of approval for a change to the operation plan.

R68-30-11. Renewals.

1) An independent cannabis testing laboratory shall submit a notice of intent to renew and the licensing fee to the department by their license expiration date.

2) If the licensing fee and intent to renew are not submitted on or before the expiration date^[1], the licensee may not continue to operate.

3) The department shall renew a license unless renewal would lead to a violation of the applicable laws and rules of the state.

R68-30-12. Proficiency Testing.

1) The department shall establish a proficiency testing program for independent cannabis testing laboratories.

2) Each independent cannabis testing laboratory shall participate in the designated proficiency testing program with satisfactory performance as determined by the Department.

R68-30-13. Violation Categories.

1) Public Safety Violations: \$3,000- \$5,000 per violation. This category is for violations which present a direct threat to public health or safety including ~~but not limited to~~:

- a) cannabis sold to an unlicensed source;
- b) cannabis purchased from an unlicensed source;
- c) refusal to allow inspection;
- d) refusal to participate in proficiency testing;
- e) failure to comply with testing requirements;
- f) failure to report testing results;
- g) unauthorized personnel on the premises;
- h) permitting criminal conduct on the premises;
- i) engaging in or permitting a violation of the ~~Utah Code~~ Title 4, Chapter 41a, Cannabis Production Establishments, [4-41a which] that amounts to a public safety violation as described in this subsection.

2) Regulatory Violations: \$1,000-\$5,000 per violation. This category is for violations involving this rule and other applicable state rules including ~~but not limited to~~:

- a) failure to maintain alarm and security systems;
- b) failure to keep and maintain records;
- c) failure to maintain traceability;
- d) failure to follow transportation requirements;
- e) failure to follow the waste and disposal requirements; or
- f) engaging in or permitting a violation of ~~Utah Code 4-41a~~ Title 4, Chapter 41a, Cannabis Production Establishments or this rule [which] that amounts to a regulatory violation as described in this subsection.

3) Licensing Violations: \$500- \$5,000 per violation. This category is for violations involving licensing requirements including ~~but not limited to~~:

- a) an unauthorized change to the operating plan;
- b) failure to notify the department of changes to the operating plan;
- c) failure to notify the department of changes to financial or voting interests of greater than 2%;
- d) failure to follow the operating plan as approved by the department;
- e) engaging in or permitting a violation of this rule or ~~Utah Code 4-41a which~~ Title 4, Chapter 41, Cannabis Production Establishments, that amounts to a licensing violation as described in this subsection; or
- f) failure to respond to violations.

4) The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.

KEY: cannabis laboratory, cannabis testing

Date of Last Change: [February 8,] 2021

Authorizing, and Implemented or Interpreted Law: 4-41a-701(3); 4-41a-404(3); 4-41a-405(2)(b)(iv); 4-41a-103(5)

NOTICE OF PROPOSED RULE

TYPE OF RULE: New

Utah Admin. Code Ref (R no.):	R156-4a	Filing ID 53992
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Agency Information

1. Department:	Commerce		
Agency:	Occupational Licensing	and	Professional Licensing
Building:	Heber M Wells		
Street address:	160 E 300 S		
City, state and zip:	Salt Lake City, UT 84111		
Mailing address:	PO Box 146741		
City, state and zip:	Salt Lake City, UT 84114		
Contact person(s):			
Name:	Phone:	Email:	
Kelli Jacobsen	801-530-6291	kellijacobsen@utah.gov	

Please address questions regarding information on this notice to the agency.

General Information**2. Rule or section catchline:**

R156-4a. Utah Professionals Health Program Rule

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

H.B. 285, passed by the Legislature during the 2020 General Session, created the Utah Professionals Health Program (UPHP). Title 58, Chapter 4a, Utah Professionals Health Program, requires the Division of Occupational and Professional Licensing (Division) to promulgate rules to implement and administer the UPHP. The purpose of this new rule filing is to establish the standards for participation in the UPHP in accordance with the advice and recommendations of the UPHP executive advisory committee created under Section 58-4a-104.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The UPHP provides an alternative to public disciplinary action for licensees who have substance use disorders. This rule will help implement the UPHP by establishing the standards for licensee entry into the UPHP, participation in the UPHP, successful completion of the UPHP, expulsion from the UPHP, and disqualification from participation in the UPHP.

Rule Hearing will be electronically only via Google Meet:
meet.google.com/ym-yusy-naz
 Join by phone: (US) + 1 617-675-4444, PIN: 650 691 681 2864#

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no aggregate anticipated cost or savings to the state budget. This new rule is establishing the requirements for the UPHP that was created by the passing of H.B. 285 (2020). Any costs to the state budget were already considered in the passage of H.B. 285 (2020).

B) Local governments:

There is no aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this new rule.

C) Small businesses ("small business" means a business employing 1-49 persons):

There is no aggregate anticipated cost or savings to small businesses because this proposed new rule does not create new obligations for small businesses, nor does it increase the costs associated with any existing obligation. Individual participation in the UPHP is voluntary and optional.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no aggregate anticipated cost or savings to non-small businesses because this proposed new rule does not create new obligations for non-small businesses, nor does it increase the costs associated with any existing obligation. Individual participation in the UPHP is voluntary and optional.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no aggregate anticipated cost or savings to other persons because this proposed new rule does not create new obligations for persons, nor does it increase the costs associated with any existing obligation. Individual participation in the UPHP is voluntary and optional.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons because participation in the UPHP is voluntary and optional.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

The Division proposes this Utah Professionals Health Program Rule. The Division is filing this rule in conformance with H.B. 285 (2020). This rule's purpose is to clarify the standards for participation in the UPHP in accordance with the advice and recommendations of the UPHP executive advisory committee created under Section 58-4a-104.

Small Business (less than 50 employees): The proposed rule is not expected to impact small businesses' revenues or expenditures. Further, no fiscal impact is expected for small business as the costs are either inestimable or there is no fiscal impact.

Regulatory Impact to Non-Small Businesses (50 or more employees): This new rule will have no expected fiscal impact for non-small businesses in Utah for the same rationale as described above for small business. These costs are either inestimable, for the reasons stated above, or there is no fiscal impact.

Margaret W. Busse, Executive Director

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Commerce, Margaret W. Busse, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Subsection 58-1-106(1)	Subsection 58-4a-103(2)	Subsection 58-4a-107(4)
Subsection 58-4a-110(2)		

Incorporations by Reference Information

8. A) This rule adds, updates, or removes the following title of materials incorporated by references:

	First Incorporation
Official Title of Materials Incorporated (from title page)	Physician Health Program Guidelines
Publisher	Federation of State Physician Health Programs
Date Issued	April 16, 2019
Issue, or version	1st Edition

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:		11/15/2021
B) A public hearing (optional) will be held:		
On:	At:	At:
10/18/2021	10:15 AM	Rule Hearing will be electronically only via Google Meet (see Box 4 above).

10. This rule change MAY become effective on:	11/22/2021
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

Agency Authorization Information

Agency head or designee, and title:	Mark B. Steinagel, Division Director	Date:	09/23/2021
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R156. Commerce. Occupational and Professional Licensing.

R156-4a. Utah Professionals Health Program Rule.

R156-4a-101a. Title.

This rule is known as the "Utah Professionals Health Program Rule."

R156-4a-101b. Authority - Purpose - Organization.

(1) This rule is adopted by the Division under the authority of Section 58-4a-103 to enable the Division to administer Title 58, Chapter 4a, Utah Professionals Health Program.

(2) The organization of this rule and its relationship to Rule R156-1, General Rule of the Division of Occupational and Professional Licensing, is as described in Section R156-1-107.

R156-4a-102. Definitions.

In addition to the definitions in Title 58, Occupations and Professions, as used in Title 58, Occupations and Professions, or in Title R156, Commerce, Occupational and Professional Licensing, the following rule definitions supplement the statutory definitions:

(1) "Abstinence" means the same as defined in the FSPHP Guidelines: The absence of substances that are UHP nonapproved mind or mood altering, including alcohol and other substance use disorder potentiating substances.

(2) "Abstinence-based self-help group" means a self-help group having a foundation in abstinence that is approved by the Division for a participant to attend.

(3) "Aftercare" means the same as Continuing Care.

(4) "Acknowledgment of Participation" means a document signed by a UHP participant and a party required by the participant's program contract in which:

(a) the participant certifies that the participant has informed the required party of the participant's participation in UHP; and

(b) the required party certifies that they have reviewed the program contract.

(5) "Compliance Monitoring" means the coordination of services on behalf of the participant to ensure the integrity of monitoring and continuing care accountability.

(6) "Comprehensive Clinical Evaluation" means a Division-approved independent evaluation of a participant that:

(a) is diagnostically rigorous;

(b) is tailored to the specific needs of the participant;

(c) includes collateral information; and

(d) assesses the presence of a substance use disorder and of any other conditions that may affect the participant's physical or psychological fitness for practice.

(7) "Continuing Care" means the same as defined in the FSPHP Guidelines: Care that follows the acute phase of intervention and initial treatment, sometimes referred to as aftercare. Professional health programs oversee and monitor the continuity of care to ensure progress and continued compliance. Continuing Care includes PHP guidance, support, toxicology collection, and accountability through a formal monitoring contract concurrent with or following an evaluation or treatment process.

(8) "Evaluators" means the same as defined in the FSPHP Guidelines: Qualified clinical experts who are consulted to investigate possible psychiatric or physical illness that potentially can cause impairment. Evaluators are used to formulate impressions, diagnoses, treatment plans, and suggestions for effective monitoring.

(9) "FSPHP" means the Federation of State Physician Health Programs.

(10) "FSPHP Guidelines" means the FSPHP's Physician Health Program Guidelines, April 16, 2019, 1st Edition, which is hereby incorporated by reference.

(11) "Impairment" means the inability of a participant to safely engage in the participant's profession as a result of their substance use disorder.

(12) "Intake Session" means the procedure described in Subsection R156-4a-3(3) to gather information from a licensee regarding entry into UPHP and to provide information about UPHP to the licensee.

(13) "Misconduct" means a licensee's acts or omissions alleged to constitute either unprofessional or unlawful conduct, or both, that serve as the basis to consider the licensee for participation in UPHP.

(14) "Participant" means a licensee participating in UPHP pursuant to an executed program contract or diversion agreement.

(15) "Private Agreement to Not Practice" means a voluntary and private agreement between the licensee and the UPHP to withdraw from practice and not return to practice until authorized by the UPHP.

(16) "Program contract," as defined in Subsection 58-4a-102(4), includes each written agreement entered into by a participant and the Division and may include multiple documents.

(17) "Qualifying condition" means a participant's substance use disorder that makes the participant eligible to participate in the UPHP.

(18) "Record" means the stored documentation of a potential participant's or participant's contacts and interaction with and participation in the UPHP.

(19) "Relapse" means the same as Return to use behavior.

(20) "Report" means a report from a collateral source addressing a participant's compliance with UPHP agreements, including a program contract or diversion agreement.

(21) "Return to use behavior" means a spectrum of thoughts and behaviors suggestive of increased risk for use or actual use of unapproved substances.

(22) "Return to work plan" means the Division approval of a participant's return to practice after a period of leave during which a participant was determined fit to practice, and includes identification of the steps that shall be taken to ensure safe and supported return to practice.

(23) "Screening" means the UPHP's initial meeting with a licensee to gather basic demographic information and information about the circumstances of the referral, and to schedule the intake session. A screening may also include discussion of UPHP confidentiality and its limits.

(24) "Substance" means the same as defined in the FSPHP Guidelines: Mind or mood altering substances defined in law as controlled substances; for example, alcohol or other legal or illegal substances that are mood altering and can potentially impact the ability to practice.

(25) "Substance abuse" means the same as defined in the FSPHP Guidelines: The essential feature of substance abuse is a maladaptive pattern of substance use manifested by recurrent and significant adverse consequences related to the repeated use of substances.

(26) "Toxicology testing" means the collection of urine, blood, oral fluid, hair, nails, sweat, or breath used to deter and detect unauthorized drug or alcohol use by a participant.

(27) "Treatment" means the same as defined in the FSPHP Guidelines: The delivery of care and rehabilitation to a participant experiencing a potentially impairing illness, including a course of inpatient or outpatient care, treatment, or rehabilitation services provided or supervised by a person authorized to provide such services for the purpose of alleviation of impairment and improvement of illness.

(28) "Treatment provider" means the same as defined in the FSPHP Guidelines: Individuals, organizations, or another entity composed of licensed professionals who are providing care and treatment to a participant.

(29) "UPHP" means the Utah Professionals Health Program.

(30) "UPHP Medication Policy" means the policy identified in Subsection R156-4a-103b(3) regarding participant use of medication.

(31) "UPHP participation standards" means the criteria identified in Subsection R156-4a-103b(3) for licensee participation in UPHP.

(32) "UPHP Return to Use Behavior Policy" means the policy identified in Subsection R156-4a-103b(3) regarding participant return to use behavior.

(33) "Worksite practice liaison" means a participant's UPHP approved nonsubordinate support person who:

(a) has regular contact with the participant in the participant's practice setting;

(b) understands the signs and symptoms of substance use disorder;

(c) can make independent objective judgments regarding the participant without risk of undue influence by the participant;

(d) is authorized by the participant to communicate with the UPHP; and

(e) reports to the UPHP on the participant's worksite practice behavior and performance.

R156-4a-103a. UPHP Eligibility and Entry.

(1) Under Subsection 58-4a-103(2)(a) and Section 58-4a-105, each licensee applying to participate in the UPHP shall complete the following steps in accordance with UPHP eligibility process policies and procedures, including time deadlines:

(a) complete an intake session;

(b) complete a comprehensive clinical evaluation;

(c) comply with toxicology testing as requested by the UPHP;

(d) submit documentation satisfactory to the UPHP that the licensee meets UPHP eligibility criteria;

(e) comply with additional eligibility process requirements as determined by the UPHP, including for example one or more of the following:

(i) practice accommodations or limitations;
(ii) increased frequency of toxicology testing; or
(iii) restrictions on access to mind or mood altering substances and use of medication treatment; and
(f) execute a program contract.
(2) A licensee may not participate in the UPHP if:
(a) the licensee has harmed a patient by providing care below the expected standard of care that resulted in an adverse consequence for the patient;
(b) the licensee has engaged in unlawful conduct or unprofessional conduct as defined by statute or rule under Title 58, Occupations and Professions, with respect to:
(i) a criminal sexual act; or
(ii) a boundary violation that the licensee's comprehensive clinical evaluation determines is unrelated to the licensee's substance use disorder;
(c) the licensee has a currently active or pending criminal action, adjudicative proceeding, or charge alleging:
(i) a criminal sexual act; or
(ii) a boundary violation that the licensee's comprehensive clinical evaluation determines is unrelated to the licensee's substance use disorder;
(d) the licensee's license to practice in another jurisdiction was surrendered while under investigation, or is currently publicly conditioned, curtailed, limited, restricted, suspended, on probation, or otherwise subject to public discipline; or
(e) the UPHP otherwise determines that the licensee is not a good candidate for participation in UPHP.
(3) Intake session procedures shall include the following:
(a) the UPHP shall:
(i) provide UPHP information to the licensee, to include UPHP confidentiality and its limits and the types of information the UPHP is mandated to and will report to a regulatory authority including the Division;
(ii) gather information about the circumstances that led the licensee to contact the UPHP;
(iii) gather clinical information regarding the licensee's potential substance use disorder, to include a preliminary diagnosis and need for immediate treatment;
(iv) determine if the licensee may be eligible for participation in the UPHP, and if the UPHP may be mandated to report licensee information to a regulatory authority, and discuss this information with the licensee; and
(v) if the UPHP determines that the licensee may be eligible for participation in the UPHP, the UPHP shall provide the licensee with a list of UPHP approved evaluators.
(b) the licensee shall complete an initial Release of Information that includes evaluators and additional sources as determined by the UPHP.
(4) The licensee's comprehensive clinical evaluation shall be completed by:
(a) a multidisciplinary team at an evaluation center that has established expertise in the assessment of healthcare providers or other safety-sensitive professions with substance use disorders; or
(b) a qualified specialist approved by UPHP.
(5)(a) The licensee shall obtain the required comprehensive clinical evaluation within 30 days after the day of the licensee's intake session.
(b) The UPHP may grant an extension of time to a licensee to obtain the comprehensive clinical evaluation if:
(i) there is a lack of available evaluators or a waiting list to access an evaluation;

(ii) the licensee needs further evaluation; or
(iii) upon reasonable cause as determined by the UPHP.
(6)(a) An evaluator shall provide the licensee's comprehensive clinical evaluation report to the UPHP.
(b) An evaluator may not recommend a specific treatment provider for a licensee.
(7) The UPHP shall make the final determination of a licensee's eligibility to participate in the UPHP based upon the UPHP's review of:
(a) the licensee's comprehensive clinical evaluation report, treatment records, and other applicable medical records;
(b) the licensee's documentation that the licensee meets the UPHP eligibility criteria; and
(c) other information determined relevant by the UPHP to the licensee's participation.
(8)(a) After the UPHP determines a licensee is eligible to participate in the UPHP, the UPHP shall develop the terms and conditions of the licensee's program contract and offer the program contract to the licensee.
(b)(i) A licensee shall meet with the UPHP to review and execute the program contract within 30 days after the day the UPHP offers the program contract to the licensee.
(ii) The UPHP may grant an extension of time to a licensee to execute the program contract upon reasonable cause as determined by the UPHP.
(9)(a) The following do not constitute disciplinary action by the Division, and the Division may not report them to a disciplinary database:
(i) a licensee's execution of a program contract; or
(ii) a licensee's agreement with the UPHP to comply with practice accommodations or limitations under Subsection R156-4a-103a(1).
(b) Notwithstanding Subsection (9)(a), to the extent required by statute or rule pertaining to a compact in which Utah is a member, the UPHP may report non-confidential data to a compact database.

R156-4a-103b. Participation - UPHP Components and UPHP Participation Standards.

(1) Under Section 58-4a-103, participation in the UPHP shall include the following components, as determined by the UPHP:
(a) an executed program contract or diversion agreement;
(b) a comprehensive clinical evaluation;
(c) participation and attendance in treatment and continuing care with the treatment providers approved by the UPHP;
(d) compliance monitoring;
(e) interstate monitoring;
(f) participant contact, including at least quarterly reports by a worksite practice liaison;
(g) monthly or quarterly reports, including at least quarterly reports by a therapist;
(h) medication logs;
(i) support group attendance;
(j) toxicology testing; and
(k) other components as determined by the UPHP.
(2)(a) Monitoring of a participant pursuant to the terms and conditions of the program contract shall begin upon the participant's execution of the program contract.
(b) If the program contract requires residential or inpatient treatment instead of outpatient treatment, monitoring under the program contract may commence after the participant completes the residential or inpatient treatment.

(3) The following are established as the UPHP participation standards:

(a) A participant shall abstain from the use of mind or mood altering substances, including alcohol, medical cannabis, substances containing THC, inhalants, and illegal, non-prescribed, and certain identified psychotropic over-the-counter medications.

(b) A participant shall abstain from the use of mind or mood altering, addictive, or potentially addictive prescription medications, including amphetamine preparations, opioids, sedatives, and benzodiazepines, except in an emergency such as hospitalization due to emergency surgery, illness, or accident.

(c) A participant shall follow the UPHP Medication Policy, which shall include the following participant requirements:

(i) provide UPHP with copies of prescriptions, including controlled substances, received by the participant during the term of the program contract;

(ii) receive medications for a participant's own use only from treatment providers;

(A) with whom the participant has a legitimate patient relationship; and

(B) who have signed an Acknowledgment of Participation from UPHP regarding the participant's terms and conditions for participating in UPHP;

(iii) provide UPHP information, or request information for UPHP, regarding medications prescribed to the participant;

(iv) if a participant has a medical condition requiring potentially addictive substance use, or is prescribed a controlled medication for any reason, comply with UPHP required practice accommodations or limitations; and

(v) pursue effective alternatives or require a second opinion prior to using any controlled or mind or mood altering substances in a non-emergency situation.

(d) If a participant is at risk of impairment for any reason, the participant shall comply with UPHP required practice accommodations or limitations and not return to work until approved by the UPHP.

(e) A participant may not prescribe scheduled drugs for family members or for others who are not the participant's legitimate patients within the scope of the participant's practice, in accordance with applicable law, rule, or regulation.

(f) A participant shall prescribe only within the scope of the participant's medical specialty, in accordance with applicable law, rule, or regulation.

(g) A participant shall provide current authorizations for the UPHP as determined necessary by the UPHP, including authorization to:

(i) communicate with the participant's care providers and treatment providers as needed to verify medical issues;

(ii) communicate with the participant's worksite practice liaison;

(iii) communicate with third parties such as emergency contacts and treatment providers as determined necessary by the UPHP;

(iv) obtain information on medications prescribed to the participant; and

(v) release information about the participant's participation to the Division if required by the program contract or Utah law.

(h) A participant shall identify a primary care provider to manage the participant's medical care and to comply with the participant's treatment plan, including complying with the treatment provider recommendations and not self-prescribing or independently discontinuing any medications.

(i) A participant shall follow the initial treatment, medication management, and continuing care recommendations with providers approved by the UPHP until treatment objectives are met as determined by the treatment provider, and treatment is discontinued with the UPHP's approval.

(j) A participant shall attend a minimum number of mutual help group meetings or an alternative approved by the UPHP, documented in a manner acceptable to the UPHP.

(k) A participant may not change or discontinue therapy or treatment without approval of the participant's therapist and UPHP.

(l) A participant shall identify and cooperate with a worksite practice liaison.

(m) A participant shall comply with practice accommodations or limitations as required by:

(i) the participant's program contract;

(ii) UPHP policies and procedures; and

(iii) statutes and rules pertaining to a compact in which Utah is a member.

(n) A participant shall submit to biological specimen testing if requested by the UPHP.

(o) A participant shall participate in the UPHP in good faith, and cooperate with UPHP staff.

(p) A participant shall comply with each UPHP policy, including:

(i) the UPHP Return to Use Behavior Policy; and

(ii) the UPHP Medication Policy.

(q) A participant shall notify the UPHP within 24 hours if the participant:

(i) has a medical or mental health hospitalization;

(ii) has an arrest, investigation, charge, or complaint, including a Division or other regulatory agency complaint;

(iii) receives a disciplinary notice from a regulatory agency, hospital, employer, or other third party;

(iv) has any adverse events affecting patient care including malpractice claims; or

(v) returns to use of any substances not approved by UPHP, including in cases of emergency use due to illness or accident.

(r) A participant shall notify the UPHP at least 24 hours:

(i) prior to the participant's anticipated use of any controlled or mind or mood altering prescriptions or substances; and

(ii) prior to the participant's:

(A) travel outside UPHP's jurisdiction;

(B) change of address or phone number;

(C) change of employment;

(D) engaging in practice in another jurisdiction, state, or territory;

(E) applying for a license to practice in another jurisdiction, state, or territory; or

(F) applying to participate in another alternative to public discipline program.

(s) A participant shall maintain their Utah license in active status while participating in UPHP.

R156-4a-104. Committees.

Reserved.

R156-4a-105. Program Contract - Successful Completion.

(1) Under Subsection 58-4a-103(2) and Section 58-4a-105, each program contract shall comply with this section.

(2)(a) A program contract shall identify the program contract period, and other time frames that may be required by the program contract, including tolling under Subsection 58-4a-106(4).

(b) A program contract shall provide that:

(i) the program contract period may be extended at the discretion of the UPHP in accordance with UPHP policy, if at the end of or during the program contract period, the UPHP determines that there is reasonable cause to support the need for additional monitoring or extended treatment; and

(ii) unless otherwise agreed in writing by the UPHP, the program contract period is tolled during any period that the participant:

(A) is not practicing; or

(B) resides or practices outside Utah for 30 consecutive days or longer.

(3) A program contract shall provide that the participant's monitoring may be transferred or shared with another appropriate health monitoring program if the participant moves or holds an active license in another jurisdiction, state, or territory.

(4) A program contract shall include a statement of UPHP confidentiality and its limitations, including conditions when the UPHP may be required to report to the Division.

(5) A program contract shall require the participant to adhere to the UPHP Participation Standards, as determined by the UPHP.

(6)(a) A program contract shall identify the potential consequences for a participant's violation, including when violation constitutes a violation of the program contract that requires an order to show cause under Section 58-4a-107.

(b) Consequences for violation may include the following:

(i) fine under Section R156-4a-110;

(ii) referral to a higher level of care;

(iii) increased frequency or intensification of treatment;

(iv) increased frequency of toxicology testing or requiring additional testing methods;

(v) additional biologic testing;

(vi) independent evaluation;

(vii) inpatient evaluation;

(viii) refrain from or limit practice as determined appropriate by the UPHP;

(ix) revision of the program contract, such as extending the period of monitoring; or

(x) a UPHP report to the Division for potential disciplinary action against the participant's license.

(7) A participant shall have successfully completed the UPHP if the UPHP has determined that the participant has fulfilled each term and condition of the participant's program contract or diversion agreement.

R156-4a-106. Effect on Other Disciplinary Proceedings.

Reserved.

R156-4a-107. Violation of a Program Contract.

(1) Under Subsection 58-4a-107(4), the procedures for discovery in formal adjudicative proceedings are in Rule R151-4, Department of Commerce Administrative Procedures Act Rule.

(2) Formal adjudicative proceedings to terminate a program contract under Section 58-4a-107 include a right to agency review and a right to reconsideration as described in Title 63G, Chapter 4, Administrative Procedures Act, and Rule R151-4, Department of Commerce Administrative Procedures Act Rule.

R156-4a-110. Fine Schedule.

Under Subsection 58-4a-110(2), the following fine schedule shall apply for violation of these requirements in a program contract:

TABLE

FINE SCHEDULE

VIOLATION	FIRST OFFENSE	SUBSEQUENT OFFENSE
R156-4a-103b(3)(f)(ii)	\$ 50	\$250 - \$1,000
R156-4a-103b(3)(g)	\$ 50	\$250 - \$1,000
R156-4a-103b(3)(k)	\$ 50	\$250 - \$1,000
R156-4a-103b(3)(o)	\$ 50	\$250 - \$1,000
R156-4a-103b(3)(q)	\$ 50	\$250 - \$1,000
R156-4a-103b(3)(w)(ii)	\$ 50	\$250 - \$1,000

R156-4a-111. Reporting - UPHP Agreements for Evaluation, Treatment, or Other Services.

(1) Under Section 58-4a-103, the Division may enter into agreements with professional or occupational organizations or associations, education institutions or organizations, testing agencies, health care facilities, health care practitioners, government agencies, or other persons to provide evaluations, treatments, monitoring, rehabilitation, education, or any other services necessary to facilitate a participant's successful completion of a program contract.

(2) Each agreement shall be in writing and shall have the terms and conditions necessary to permit each party to fulfill its duties and obligations.

(3) Each agreement shall address the circumstances and conditions under which information concerning the participant will be shared with the Division and other persons.

(4)(a) The cost of administering an agreement and providing the services shall be borne by the participant benefiting from the services.

(b) Costs paid by a participant shall be reasonable and in proportion to the value of the service provided.

(c) Timely payment of costs shall be a condition of each program contract.

KEY: licensing, program contract, fines

Date of Last Change: 2021

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-4a-103(2); 58-4a-107(4); 58-4a-110(2)

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R156-71

Filing ID
53994

Agency Information

<u>1. Department:</u>	Commerce
<u>Agency:</u>	Occupational and Professional Licensing
<u>Building:</u>	Heber M Wells Building
<u>Street address:</u>	160 E 300 S
<u>City, state and zip:</u>	Salt Lake City, UT 84111-2316
<u>Mailing address:</u>	PO Box 146741

City, state and zip:	Salt Lake City, UT 84114-6741	
Contact person(s):		
Name:	Phone:	Email:
Larry Marx	801-530-6254	lmarx@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R156-71. Naturopathic Physician Practice Act Rule
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The Naturopathic Physicians Licensing Board recommends these changes to add a legend medication to the formulary for use by naturopathic physicians in providing patient care and to update the rule in accordance with Executive Order No. 2021-12.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
Subsection R156-71-202(1) is amended to add "68:04 Adrenals" to the formulary, as recommended by the Naturopathic Physicians Licensing Board. In accordance with Executive Order No. 2021-12, formatting changes are made throughout to update and clarify this rule using logical, understandable, and concise language consistent with Office of Administrative Rules current Rulewriting Manual; in particular Sections R156-71-303 and R156-71-304 are amended to clarify the renewal, reinstatement, and continuing professional education requirements under Sections 58-1-308 and R156-1-308g, and citations are updated throughout.
A rule hearing will be held electronically before the Division with Google Meet. Join with Google Meet: meet.google.com/mdo-jkck-pvo Join by phone: (US) +1 929-367-6961 (PIN: 306254923)

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
State agencies are not expected to experience any costs or savings from these proposed amendments because the amendments will not cause any changes to existing state procedures or processes. Additionally, there are no state government entities acting as businesses that will be impacted, and state government is not involved in the naturopathic formulary.

B) Local governments:

Local governments are not expected to experience any costs or savings from these proposed amendments because the amendments will not cause any changes to existing local governments' procedures or processes. Additionally, there are no local government entities acting as businesses that will be impacted, and local government is not involved in the naturopathic formulary.

C) Small businesses ("small business" means a business employing 1-49 persons):

There are currently 55 Naturopathic Physician licensees in Utah, and it is estimated that most operate private or small group practices in their own offices, and that several operate in the facilities of others, such as hospitals or HMO medical centers (North American Industry Classification System (NAICS) 621399). The addition to the formulary will allow these Naturopathic Physicians to use an additional legend medication listed in the AHFS Formulary to treat human ailments within their scope of practice. This amendment is therefore expected to benefit small businesses; however, the full fiscal impact cannot be estimated because the data necessary to determine how many licensees will use the additional legend medication is unavailable, and because the benefits the businesses may experience from any resulting use will vary depending on patient needs.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are currently several Naturopathic Physicians who operate in larger facilities such as hospitals or HMO medical centers (NAICS 621399). The addition to the formulary will allow these Naturopathic Physicians to use an additional legend medication listed in the AHFS Formulary to treat human ailments within their scope of practice. This amendment is therefore expected to indirectly benefit non-small businesses; however, the full fiscal impact cannot be estimated because the data necessary to determine how many licensees will use the additional legend medication is unavailable, and because the benefits the non-small businesses may experience from any resulting use will vary depending on patient needs.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The proposed amendments apply to persons licensed as Naturopathic Physicians in Utah. There are currently 55 Naturopathic Physician licensees in Utah; it is estimated that most operate private or small group practices in their own offices, and that several operate in the facilities of others, such as hospitals or HMO medical centers (NAICS 621399). The proposed amendment that will allow these Naturopathic Physicians to use an additional legend medication listed in the AHFS Formulary to treat human

ailments within their scope of practice is expected to benefit these persons. However, the full fiscal impact cannot be estimated because the data necessary to determine how many licensees will use the additional legend medication is unavailable, and because the benefits these licensees and their patients may experience from any resulting use will vary depending on patient needs.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

No compliance costs are expected for any affected persons as explained above.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

The Division of Occupational and Professional Licensing (Division) proposes amendments to the Naturopathic Physician Practice Act Rule. Changes and updates were made through recommendations from the Naturopathic Physicians Licensing Board. Further, the Division has made formatting changes throughout this rule to conform this rule to the Office of Administrative Rules' Rulewriting Manual.

Small Businesses (less than 50 employees): The Division has found that there are currently 55 Naturopathic Physician licensees in Utah. It is likely that most of those licensees operate private or small group practices in their own offices and some may operate in hospitals or HMO medical centers (NAICS 621399). This amendment will benefit small businesses as the addition to the American Hospital Formulary Service (AHFS) Formulary list, which will allow these Naturopathic Physicians to use an additional legend medication within the scope of practice. However, the full fiscal impact cannot be estimated due to the variability of data necessary to determine how many licensees will use the additional legend medication.

Regulatory Impact to Non-Small Businesses (50 or more employees): There are currently several Naturopathic Physicians who operate in larger facilities such as hospitals or HMO medical centers (NAICS 621399) in Utah. There is expected to be similar economic benefit for licensees using the expanded AFHS Formulary list, thus, the same rationale applies for non-small business as described above for small business. However, the full benefits are either inestimable for the reasons stated above.

Margaret W. Busse, Executive Director

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Commerce, Margaret W. Busse, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 58-71-101	Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	11/15/2021
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B) A public hearing (optional) will be held:		
On:	At:	At:
11/10/2021	9:00 AM	Rule hearing will be held electronically before the Division with Google Meet (see Box 4 above).

10. This rule change MAY become effective on:	11/22/2021
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Mark B. Steinagel, Division Director	Date:	09/28/2021
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R156. Commerce, Occupational and Professional Licensing.
R156-71. Naturopathic Physician Practice Act Rule.
R156-71-102. Definitions.

In addition to the definitions in Title 58, Chapter[s] 1, Division of Occupational and Professional Licensing Act, and Title 58, Chapter 71, Naturopathic Physician Practice Act, the following rule definitions supplement the statutory definitions ~~as used in Title 58, Chapters 1 and 71, or this rule~~:

(1) "Approved clinical experience program" or "residency program" as used in Subsections 58-71-302(1)(~~e~~)~~d~~ and 58-71-304.2(1)(b), mean[s] a residency program that is:

- (a) at least one year in length; and
- (b) approved by the ~~a~~ Council of Naturopathic Medical Education (CNME), meaning it is ~~approved residency program (i.e. a residency program)~~ under the auspices of a CNME-~~accredited~~ accredited or CNME candidate Naturopathic Doctor~~ate (ND)~~ program that is recognized by the CNME as a residency program sponsor~~), that is at a minimum one year in length~~.

(2) "Direct supervision" as used in Subsection 58-71-304.2(1)(b), means the supervising naturopathic physician is:

- (a) responsible for the naturopathic activities and services performed by the naturopathic physician intern; and
- (b) ~~is~~ normally present in the facility, and when not present in the facility is available by voice communication to direct and control the naturopathic activities and services performed by the naturopathic physician intern.

(3) "Direct and immediate supervision" of a medical naturopathic assistant [~~"assistant"~~] as used in Subsections 58-71-102(6) and 58-71-305(7), means that the licensed naturopathic physician is:

- (a) responsible for the activities and services performed by the medical naturopathic assistant; and
- (b) ~~will be~~ present in the facility and immediately available for advice, direction and consultation.

(4) "Distance learning" means the acquisition of knowledge and skills through information and instruction

encompassing ~~all~~ technologies and other forms of learning at a distance, including internet, audio~~f~~-visual recordings, mail, or other correspondence.

(5) "Naturopathic physician intern" or "intern" means an individual who qualifies for a temporary license under Section 58-71-304.2 to engage in a naturopathic physician residency program recognized by the ~~d~~ Division under the direct supervision of an approved naturopathic physician, physician and surgeon, or osteopathic physician.

(6) "NPLEX" means the Naturopathic Physicians Licensing Examinations.

(7) "Primary health care"~~[7]~~ as referenced in Subsection 58-71-102(12), means basic or general health care provided at the patient's first contact with the naturopathic physician.

(8) "Qualified continuing education"~~[3]~~ ~~as used in this rule,~~ means continuing education that meets the standards ~~set forth in S[ub]section R156-71-304.~~

(9) "Unprofessional conduct"~~[5]~~ as defined in Title 58, Chapter[s] 1, Division of Occupational and Professional Licensing Act, and Chapter 71, Naturopathic Physician Practice Act, is further defined under, in accordance with Subsection 58-1-203(~~5~~)(1)(c) and 58-71-102(17), in Section R156-71-502.

R156-71-103. Authority - Purpose.

This rule is adopted by the ~~d~~ Division under the authority of Subsection 58-1-106(1)(a) to enable the ~~d~~ Division to administer Title 58, Chapter 71, Naturopathic Physician Practice Act.

R156-71-202. Naturopathic Physician Formulary.

(1)(a) ~~Under~~ ~~In accordance with~~ Subsections 58-71-102(8)(~~d~~) and 58-71-102(12)(a) ~~and Section 58-71-202~~, the naturopathic physician formulary ~~which consists of~~ noncontrolled substance legend medications ~~deemed~~ appropriate for the primary health care of patients within the scope of practice of naturopathic physicians, the prescription of which is approved by the Division in collaboration with the Naturopathic Formulary Advisory Peer Committee under Section 58-71-202, ~~consists of the following legend drugs,~~ are identified in Subsection (1)(b).

(b) The following noncontrolled substance legend medications are listed by category, with reference numbers identified in the American Hospital Formulary Service (AHFS) Drug Information, 2021 edition, published by the American Society of ~~[Health System]~~ Hospital Pharmacists, ~~[2008 edition or the current edition available on AHFS Drug Information website, which is]~~ available at <http://www.ahfsdruginformation.com>:

- 4:00 Antihistamines
- 8:08 Anthelmintics
- 8:12 Antibacterials, limited to oral, topical and intramuscular administration
- 8:14 Antifungals, oral and topical forms
- 8:16.92 Miscellaneous Antimycobacterials
- 8:18 Antivirals limited to oral and topical dosage forms, excluding:
 - 8:18:08 Antiretrovirals
 - 8:18:20 Interferons
 - 8:18:24 Monoclonal Antibodies
 - 8:18:32 Nucleosides and Nucleotides
 - 8:30.04 Amebicides
 - 8:30.92 Miscellaneous Antiprotozoals excluding those whose primary indication is the treatment of infection in immunosuppressed patients, such as ~~(i.e.)~~ Pentamidine and Trimetrexate~~[3]~~

8:36 Urinary anti-infectives
 12:12.08.12 Selective Beta 2 Adrenergic Agonists
 12:12.12 Alpha and Beta Adrenergic Agonists
 12:16 Sympatholytic [~~(f)~~Adrenergic Blocking~~(j)~~] AB
 Agents, limited to ergot derivatives
 12:20 Skeletal Muscle Relaxants, excluding scheduled
 medications
 20:12.04.16 Heparins
 20:24 Hemorrhologic Agents
 24:04.08 Cardiogenic Agents - limited to Digoxin
 24:06 Antilipemic Agents
 24:08 Hypotensive Agents - limited to oral dosage forms
 24:20 Alpha Adrenergic Blocking Agents
 24:24 Beta Adrenergic Blocking Agents - limited to oral
 dosage forms
 24:28 Calcium Channel Blocking Agents - limited to oral
 dosage forms
 24:32 Renin-Angiotensive-Aldosterone System Inhibitors
 - limited to oral dosage forms
 28:08 Analgesics and Antipyretics, excluding scheduled
 medications
 28:10 Opiate Antagonists
 28:16.04.16 Selective Serotonin - and Norepinephrine-
 Reuptake Inhibitors
 28:16.04.20 Selective~~(-)~~ Serotonin Reuptake Inhibitors
 28:16.04.24 Serotonin Modulators
 28:16.04.28 Tricyclics and Other Norepinephrine-
 Reuptake Inhibitors
 28:16.04.92 Antidepressants, Miscellaneous
 28:32.28 Selective Serotonin Agonists
 40:00 Electrolytic, Caloric, and Water Balance
 40:18.92 Other Ion-removing Agents
 40:28 Diuretics
 44:00 Enzymes, limited to digestive and proteolytic
 48:10.24 Leukotriene Modifiers
 48:10.32 Mast-Cell Stabilizers
 48:16 Expectorants
 52:08 Corticosteroids (oral, topical, and injectable), Anti-
 Inflammatory Agents and DMARDS
 52:24 Mydriatics
 56:22 Antiemetics
 56:28 H₂ Blockers, Anti-ulcer Agents and Acid
 Suppressants
 56:36 Anti-inflammatory Agents
 64:00 Heavy Metal Antagonists, in addition to DMPS (2,3-
 Dimercapto-1-propanesulfonic acid)
68:04 Adrenals
 68:12 Contraceptives, except implants and injections
 68:16.04 Estrogens
 68:16.08 Antiestrogens, limited to Anastrozole for use in
 the setting of hormone replacement therapy
 68:16.12 Estrogen Agonists-Antagonists, limited to
 Raloxifene
 68:18 Gonadotropins; limited to Gonadotropin, Chorionic
 68:20.02 Alpha-Glucosidase Inhibitors
 68:20.04 Biguanides
 68:20.08 Insulins
 68:20.20 Sulfonylureas
 68:24 Parathyroid
 68:32 Progestins
 68:36 Thyroid and Antithyroid Agents, including Thyroid
 of glandular extract

72:00 Local Anesthetics
 76:00 Oxytocics, limited to Oxytocin
 80:00 Serums, Toxoids, Vaccines
 84:00 Skin and Mucous Membrane Agents, excluding
 Depigmenting and Pigmenting Agents (reference number 84:50)
 84:92 Skin and Mucous Membrane Agents, Miscellaneous,
 excluding Isotretinoin
 88:00 Vitamins
 92:00 Miscellaneous Therapeutic Agents, limited to
 Botulinum Toxin type A, and [~~(f)~~limited to superficial injections~~(j)~~]
 92:08 5-Alpha-Reductase Inhibitors
 92:16 Antigout Agents
 (2) [~~In addition,~~Under Subsections 58-71-102(8) and 58-
 71-102(12)(a), the naturopathic physician formulary includes the
 following items or substances, [~~although not listed in Subsection (1),~~
~~are approved~~]for the primary health care of patients within the scope
 of practice of naturopathic physicians:
 (a) Amino Acids;
 (b) Minerals;
 (c) Oxygen;
 (d) Silver Nitrate;
 (e) DHEA (dihydroepiandrosterone);
 (f) Pregnenolone; and
 (g) Allergy Testing Agents.
 (3) [~~In accordance with~~Under Subsections 58-71-
 102(8)(e) and 58-71-102(12)(a) and Section 58-71-202, the
 naturopathic physician formulary includes [~~a single~~]the following
 controlled substance with the reference number identified in the
 AHFS Drug Information, 2021 edition, published by the American
 Society of [~~Health System~~]Hospital Pharmacists, [2008
 edition]available at <http://www.ahfsdruginformation.com>:
 68:08 Testosterone.
 (4) A licensed naturopathic physician may not prescribe or
 administer a new category or class [~~New categories or classes~~]of
 drugs [~~will need to be~~]until the category or class is approved as part
 of the naturopathic physician formulary[~~— prior to~~
~~prescribing/administering~~].
 (5) [~~The~~]A licensed naturopathic physician [~~has the~~
~~responsibility to~~]shall be knowledgeable about the medications and
 natural medicine being prescribed or administered.

R156-71-302. Qualifications for Licensure[~~— Examination Requirements~~].

(1) Under Subsection 58-71-302(1)(a)(i), submissions by
 the applicant of information maintained by practitioner data banks
 shall include the following:

- (a) Federation Credentials Verification (FCVS) report; and
- (b) National Practitioner Data Bank Report of Action.

(2) Under [~~In accordance with~~]Subsections 58-71-
 302(1)(~~(f)~~e) and 58-71-302(2)(~~(e)~~)(a)(iii), the licensing examination
 sequence required for licensure is as follows:

- (~~(1)~~a)(i) NPLEX Basic Science Series~~(j)~~;
- (ii) [~~the~~]State of Washington Basic Science Series; or
- (iii) [~~the~~]State of Oregon Basic Science Series;
- (~~(2)~~b) NPLEX Clinical Series; and
- (~~(3)~~c) NPLEX Minor Surgery.

[
**R156-71-302a. Qualifications for Licensure Education
 Requirements for Graduates of Naturopathic Physician
 Programs or Schools Located Outside the United States.**
 —The] (3) Under Subsection 58-71-302(2)(b),

satisfactory documentation of compliance with the licensure

~~[requirement set forth in Subsection 58-71-302(2)(b)]~~ education requirements for graduates of naturopathic physician programs or schools in a foreign country or district or territory of the United States, shall be a report submitted to the Division by the International Credentialing Associates, Inc. (ICA) confirming that the applicant's naturopathic physician program or school has met the accreditation standards.

R156-71-303. License Term, Renewal, and Reinstatement [Cycle -] Procedures.

(1) ~~[In accordance with]~~ Under Subsection 58-1-308(1) and Section 58-71-303, the renewal date for the two-~~[year]~~ renewal cycle ~~[applicable to]~~ for licensees under Title 58, Chapter 71, Naturopathic Physician Practice Act, is established ~~[by rule]~~ in ~~[Section]~~ Subsection R156-1-308a(1).

(2) Renewal and reinstatement procedures shall be in accordance with Sections R156-1-308c through R156-1-308l, except as provided in Subsection (3).

(3) Under Subsections 58-71-303(3) and 58-1-308(5)(a)(ii)(B), an applicant whose license was active and in good standing at the time of expiration may apply for reinstatement between two years and five years after the date of expiration by:

(a) submitting a reinstatement application demonstrating compliance with requirements and condition of license renewal;

(b) paying license renewal and reinstatement fees for the current renewal period; and

(c) submitting documentation that the applicant has successfully completed:

(i) at least 48 hours of qualified continuing professional education for the current two-year licensure cycle; and

(ii) any additional hours of qualified continuing professional education determined necessary by the Division in collaboration with the Board to clearly demonstrate the applicant is currently competent to engage in naturopathic medicine.

R156-71-304. Qualified Continuing Professional Education.

(1) ~~[To be]~~ Under Section 58-71-304, qualified continuing professional education~~[-a]~~ requirements are established in this section.

(2) A continuing education course shall meet the following standards:

(a) ~~[the course shall]~~ consist of clinically oriented seminars, lectures, conferences, workshops, mediated instruction, or programmed learning provided by~~[-one of the following]~~:

(i) a professional health care licensing agency, hospital, or institution accredited by the Accreditation Council of Continuing Medical Education (ACCME);

(ii) a program sponsored by the American Council of Pharmaceutical Education (ACPE);

(iii) an accredited college or university;

(iv) a professional association or organization representing a licensed profession whose program objectives are related to naturopathic training; or

(v) any other provider providing a program related to naturopathic education, if the provider has submitted an application to and received approval from the Utah Naturopathic Physicians Licensing Board;

(b) ~~[the learning objectives of the course shall be]~~ have reasonably and clearly stated learning objectives;

(c) ~~[the teaching methods shall be]~~ have clearly stated and appropriate teaching methods;

(d) ~~[the]~~ have faculty ~~[shall be]~~ qualified both in experience and in teaching expertise;

(e) ~~[there shall be]~~ have a written post course or program evaluation;

(f) ~~[the]~~ provide documentation of attendance~~[-shall be provided]~~; and

(g) ~~[the]~~ have content ~~[of the course shall be]~~ relevant to naturopathic practice, and consistent with ~~[the]~~ Utah laws and rules~~[of this state]~~.

~~[(2)]~~(3)(a) ~~[In accordance with Section 58-71-304,]~~ Each licensee shall complete 48 hours of qualified continuing professional education ~~[shall consist of 48 hours of qualified continuing professional education in each preceding two year period of licensure,]~~ during each two-year licensure cycle.

(b)(i) At least 20 of the 48 continuing professional education hours ~~[of which]~~ shall be specific to pharmacy or pharmacology as it pertains to the Naturopathic Physician Formulary, Section R156-71-202.

(ii) A minimum of ten of the 20 hours ~~[of continuing education]~~ specific to pharmacy or pharmacology ~~[must]~~ shall be recognized as category 1 credit hours as established by the ACCME~~[in each preceding two year licensure cycle]~~.

(c) ~~[No more than]~~ Up to 20 hours of continuing professional education in each two-year ~~[period of]~~ licensure cycle may be through distance learning.

(3) If a licensee allows his license to expire and the application for reinstatement is received by the division within two years after the expiration date the applicant shall:

(a) submit documentation of having completed 48 hours of qualified continuing professional education required for the previous renewal period. The required hours shall meet the criteria set forth in Subsection (2); and

(b) submit documentation of having completed a pro rata amount of qualified continuing professional education based upon one hour of qualified continuing professional education for each month the license was expired for the current renewal period.

(4) If the application for reinstatement is received by the division more than two years after the date the license expired, the applicant shall complete a minimum of 48 hours of qualified continuing professional education and additional hours as determined by the board to clearly demonstrate the applicant is currently competent to engage in naturopathic medicine. The required hours shall meet the criteria set forth in Subsection (2).

(5) Audits of a licensee's continuing education hours may be done on a random basis by the division in collaboration with the board.

(6) A licensee shall be responsible for maintaining competent records of completed qualified professional education for a period of two years after close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain this information with respect to qualified professional education to demonstrate it meets the requirements under this section.

(4) A licensee shall maintain documentation sufficient to prove compliance with this section, for a period of two years after the end of the renewal cycle for which the continuing professional education is due.

~~[(7)]~~(5) The ~~[d]~~ Division in collaboration with the ~~[b]~~ Board may defer or waive continuing professional education requirements for a licensee pursuant to Section R156-1-308d, for a period of up to four years, ~~[grant a waiver of continuing education requirements to a waiver applicant who documents he is engaged in full time activities or is subjected to circumstances which prevent the licensee from]~~

~~meeting the continuing professional education requirements established under this section. A waiver may be granted for a period of up to four years. However, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.]~~

R156-71-502. Unprofessional Conduct.

"Unprofessional conduct" includes failure to comply with the approved naturopathic physician formulary in Section R156-71-202.

KEY: licensing, naturopaths, naturopathic physician

Date of Last Change: ~~June 7, 2018~~ 2021

Notice of Continuation: August 12, 2021

Authorizing, and Implemented or Interpreted Law: 58-71-101; 58-1-106(1)(a); 58-1-202(1)(a)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R357-13	Filing ID 53996

Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state and zip:	Salt Lake City, UT 84111	
Contact person(s):		
Name:	Phone:	Email:
Dane Ishihara	801-538-8864	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R357-13. Hotel Convention Center Incentive
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
Section 357-13-6 is amended to establish that an entity claiming a convention incentive must submit a report completed by a certified public account, makes changes to comply with Executive Order No. 2021-12, and during the 2021 General Session H.B 348 passed and changed the Governor's Office of Economic Development (GOED) to the Governor's Office of Economic Opportunity (Go Utah), so the relevant references are updated.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the

substantive differences between the repealed rule and the reenacted rule):

This rule filing: 1) amends references of Governor's Office of Economic "Development" to the Governor's Office of Economic "Opportunity"; 2) amends statutory references so that they are correct; 3) makes changes to comply with the Office of Administrative Rules' Rulewriting Manual for Utah as required by Executive Order No. 2021-12; 4) amends Section R357-13-6 to establish that an entity claiming a convention incentive must submit a reported completed by a certified public account; and 5) Subsections R357-13-5(1) through R357-13-5(3) are removed from this rule, the substance of those subsections are governed by statute or another rule.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no aggregate anticipated cost or savings to the state budget. These changes merely make technical changes and codify a procedure the office has historically used.

B) Local governments:

There is no aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this rule.

C) Small businesses ("small business" means a business employing 1-49 persons):

There is no aggregate anticipated cost or savings to small businesses because this proposed amendment does not create new obligations for small businesses, nor does it increase the costs associated with any existing obligation. Participation in the program is optional.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no new aggregate anticipated cost or savings to non-small businesses because this proposed rule does not create new obligations for non-small businesses, nor does it increase the costs associated with any existing obligation.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed amendment does not create new obligations for persons other than small businesses, businesses, or local government

entities, nor does it increase the costs associated with any existing obligation.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons because participation in the program is optional.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

This rule will have no negative impact on businesses. The purpose of this rule filing is to make technical changes and establish that an entity claiming a convention incentive must submit a reported completed by a certified public account. Dan Hemmert, Executive Director

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Executive Director of the Governor's Office of Economic Opportunity, Dan Hemmert, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section
63N-2-509

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 11/15/2021

10. This rule change MAY become effective on: 11/22/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Dan Hemmert, Executive Director	Date:	09/29/2021
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R357. Governor, Economic Development.

R357-13. Hotel Convention Center Incentive.

R357-13-1. Purpose.

(1) This rule identifies:

(a) procedures by which the Governor's Office of Economic ~~Development~~ Opportunity may enter into an agreement with a qualified hotel owner for the development of a qualified hotel, and authorize and set conditions for a convention incentive[~~under the New Convention Facility Development Incentive Act~~];

(b) minimum criteria for an agreement with a qualified hotel owner;

(c) roles and responsibilities of the independent review committee;

(d) procedures for calculating and paying the convention incentive; and

(e) administrative procedures for the Hotel Impact Mitigation Fund.

R357-13-2. Authority.

(1) ~~[Utah Code]~~Section 63N-2-509 authorizes the Governor's Office of Economic ~~[Development]~~Opportunity to enact rules to carry out its responsibilities under the Act.

R357-13-3. Definitions.

(1) Unless otherwise specifically defined in this rule, ~~[Utah Code]~~Section 63N-2-502 defines the terms used in this rule.

(2) "Appointing entity" means any of the entities responsible for appointing members to the ~~[I]~~independent ~~[R]~~review ~~[C]~~committee ~~[pursuant to Utah Code]~~under Section 63N-2-504.

R357-13-4. Application for Approval of a Qualified Hotel and For Authorization of Incentive.

(1) The Office, with the Board's advice and after considering the recommendations of the independent review committee formed in ~~[Utah Code]~~Section 63N-2-504, may enter into an agreement with a qualified hotel owner or host local government:

(a) for the development of a qualified hotel; and

(b) to authorize and set conditions for a convention incentive, to be paid from the convention incentive fund as set forth in ~~[Utah Code]~~Subsection 63B-2-503~~[-](5)~~ and ~~[pursuant to Utah Code]~~under Section 63N-2-505 and this ~~[R]~~rule.

(2) The initial application to approve the development of a qualified hotel and to authorize and set conditions for an incentive shall include at least the following information:

(a) ~~[I]~~identify the hotel property and the hotel owner;

(b) ~~[A]~~a proposal for the convention center hotel, including construction time lines and proposed spending over the life of the project;

(c) ~~[I]~~include the required endorsement letter from the County in which the hotel is located~~[-]~~;

(i) ~~[F]~~the endorsement letter shall include by reference to or attachment of ~~[a]~~each of the requirements placed on the hotel by the County in relation to the endorsement letter; and

(ii) ~~[F]~~the endorsement letter shall include by reference to or by attachment the County's expectations regarding compliance with its requirement by the developer or owner, including how compliance with the requirements will be measured and tracked.

(d) ~~[D]~~details regarding the capital investment expected, which must be at least \$200,000,000~~[-00.]~~;

(e) ~~[F]~~the period of time for which the qualified hotel owner or host local government expects to request and claim an incentive related to the project, subject to the limitations set forth in the New Convention Facility Development Incentives Act~~[-]~~; and

(f) ~~[F]~~the maximum amount of incentives that the applicant is requesting, subject to the limitations set forth in ~~[Utah Code]~~Section 63N-2-503.

(3) The Office, with advice of the Board and after considering recommendations of the ~~[I]~~independent ~~[R]~~review ~~[C]~~committee established by ~~[Utah Code]~~Section 63G-2-504, shall review the application and materials and determine whether to enter into an agreement with the ~~[Q]~~qualified ~~[H]~~hotel, and what conditions to place on the award of an incentive~~[-]~~;

(a) The Office shall review ~~[and]~~applications and respond within 60 days~~[-]~~;

(b) ~~[I]~~if more information is requested by the Office or the Board, the applicant will have 15 days to provide the additional information, and the Office's decision will be extended by 30 days~~[-]~~;

(c) ~~[I]~~if the Office declines to approve the project, it shall publish a notice of agency action and state specifically the reasons

for declining, and what, if anything the applicant can do to cure the defects~~[-]~~;

(d) ~~[I]~~if the Office approves the project the approval ~~[shall include]~~shall include the terms, conditions, contingencies and requirements related to the convention incentive.

~~(5)~~4 If either the qualified hotel owner or the host local government are aggrieved by the ~~[N]~~notice of ~~[A]~~agency ~~[A]~~action in Subsection R357-13-3(3)(c), the entity may seek review by the Executive Director of the Governor's Office of Economic ~~[Development]~~Opportunity, using the procedures set forth in the Utah Administrative Procedures Act, ~~[Utah Code]~~Section 63G-4-301.

R357-13-5. Independent Review Committee.

~~[(1) Creation of Independent Review Committee]~~

~~(a) The Board shall establish the independent review committee within thirty days of the RFP award.~~

~~(i) All entities with appointing authority shall submit the name(s) of the person(s) that they are appointing to the Board no later than 10 days after the RFP award.~~

~~(ii) The appointing authority shall ensure that the person being appointed has accepted the position on the independent review committee and is willing and able to serve, prior to submitting the name to the Board.~~

~~(iii) The Board shall appoint its member to independent review committee no later than 10 days after the RFP award.~~

~~(iv) If the appointing entity is removing its appointee from the Independent Review Committee, or if the appointee resigns, the appointing entity shall notify GOED within 3 business days, and appoint a replacement person as soon as practically possible.~~

~~(2) Conducting Business:~~

~~(a) Four members of the Independent Review Committee shall constitute a quorum.~~

~~(b) Voting may take place if a quorum is present at meeting.~~

~~(c) A majority vote of members present during a meeting (either in person or via electronic meeting) constitutes the vote of the Independent Review Committee for the purposes of proceeding with the Committee's duties.~~

~~(3) Electronic Meetings:~~

~~(a) The independent review committee may conduct its business through electronic meetings pursuant to Utah Code Section 52-4-207.~~

~~(b) A quorum of the public body is not required to be present at the anchor location, but at least one member of the independent review committee shall be present at an anchor location for a electronic meeting.~~

~~(c) All meetings will provide for the capacity for Board members to participate electronically.~~

~~(d) All members participating electronically shall notify the office at least 24 hours in advance of the meeting of their intent to participate electronically.]~~

~~[(4)] [Role of the Independent Review Committee:]~~The ~~[I]~~independent ~~[R]~~review ~~[C]~~committee may:

(a) ~~[M]~~make recommendations to the Office regarding appropriate terms and conditions for an agreement with a qualified hotel;

(b) ~~[C]~~consult with the Office regarding compliance with the;

(i) ~~[C]~~conditions, contingencies and requirements related to the convention incentive;

(ii) ~~[P]~~proof of new tax revenue to support an application or claim for a convention incentive; and

(iii) [P]proof of reduction of the tax credit by \$1,900,000 for the first two years of the project;

(c) [S]specify the maximum dollar amount that the incentive recipient may receive for each application; and

(d) [R]review documentation to ensure that incentives are being used for the purposes set forth in [Utah Code]Section 63N-2-513.

R357-13-6. Procedures for Claiming a Convention Incentive.

(1) The applicant for a convention incentive shall be paid in accordance with [Utah Code]Section 63N-2-505[~~The entity claiming the convention incentive shall submit a claim in a form prescribed by the Office.~~].

(2) For claims of construction or off-site revenue, each claim shall identify by location, using the nine digit postal code, where the sales and use taxes constituting new tax revenue were paid. For each location identified, the certification shall itemize the amount constituting new tax revenue for each category of sales and use tax identified in [Utah Code]Section 63N-2-502.

(3) Once an application and the tax returns referenced in [Utah Code]Subsection 63N-2-505(2)(b) are received, the Governor's Office of Economic [Development]Opportunity shall have 90 days to review the information and determine whether there is sufficient information to certify the claim for payment.

(4) Any additional information requested by the Office shall be provided within 30 days.

(5) Following review of the information requested and received, the Office[;] shall issue a Notice of Agency Action either approving, modifying, rejecting a claim, or instructing the qualified hotel owner or host local government to resubmit the claim[;].

(i)[a] [F]timing and [A]amount of payment of an approved claim is subject to the availability of funds in the [F]incentive [F]fund[;].

(ii)[b] [Notwithstanding Sub-section (i),]if the application is approved and there is sufficient funds in the [F]incentive [F]fund, payments will be made within 30 days of the notice approving the claim[in paragraph 5.]; and

(c) an approved amount maybe adjusted for amounts, percentages, or error ratios identified in the report under Subsection (7).

(6) If either the qualified hotel owner or the host local government are aggrieved by the Notice of Agency Action, the entity may seek review by the Executive Director of the Governor's Office of Economic [Development]Opportunity, using the procedures set forth in the Utah Administrative Procedures Act, [Utah Code]Section 63G-4-301.

(7) The entity claiming a convention incentive shall submit a report from an independent certified public accountant that uses the following procedures:

(a) detail from the applicant's sales and use account for the period being reviewed on a form prescribed by the Office;

(b) testing a sample of transactions from the applicant's sales and use account and verifying the vendor, payment amount and sales and use tax paid; and

(c) report the ratio of the error found in the sample to the total amount for the period being reviewed.

R357-13-7. Incremental Property Tax Revenue.

(1) The Office shall define in an [A]greement with the [Q]qualified [H]hotel how and under what circumstances a county in which a qualified hotel is located shall retain incremental property tax revenue during the eligibility period and that provides assurances that incremental property tax revenue may only be used for the purposes set forth in [Utah Code]Subsection 63N-2-508(3).

R357-13-8. Procedures for the Administration of the Hotel Impact Mitigation Fund.

[~~(1) There is created an expendable special revenue fund known as the Hotel Impact Mitigation Fund.~~]

(2) An affected hotel may apply for mitigation by Filing an Application in a form prescribed by the Office.

(a)[1] [Applications for mitigation will be accepted during an "open application" period, with opening and closing dates specified by the Office.]Notification of the open mitigation application period will be posted on the Go[OED] Utah website[;].

(b)[2] An applicant who fails to apply for mitigation during the open application period will not be eligible for mitigation funds during that fiscal year[;].

(c)[3] Applications will be accepted for four consecutive years per [Utah Code]Subsection 63N-2-512(5)(a)(ii). An applicant must submit a new application each year, and the application must reflect the direct loss for the preceding calendar year only. Any additional losses reported beyond the preceding calendar year's losses shall be discounted.

(4)[3] [Eligibility: In order t]To be determined eligible for reimbursement from the Hotel Impact Mitigation Fund, an applicant shall demonstrate:

(a) [F]that the applicant is a hotel built in the state before July 1, 2014;

(b) [F]that the hotel has experienced a direct loss as defined in [Utah Code]Subsection 63N-2-512(1)(b)[;] and

(c) [E]vidence of [D]direct [L]loss must clearly establish the link between the qualified hotel and the applicant's loss. [In order t]To show Direct Loss, the Applicant shall:

(i) [P]provide the applicant's baseline occupancy rates for the prior [3]three years, by year;

(ii) [P]provide audited financial reports for the prior [3]three years, by year[;].

(iii) [P]provide Tax Return data showing that the Applicant has reported a financial loss;

(iv) [P]provide an audited statement showing the link between the qualified hotel and the applicant's direct loss, showing that the qualified hotel, and not any other factor, is responsible for the direct loss[;] and

(v) [A]apply during the open application period as set forth in [s]Subsection (2)[1].

(5)[3] [In accordance with office rules, t]The [b]Board shall annually pay up to \$2,100,000 of money in the mitigation fund:

(a) to affected hotels, on a pro rata basis, based on the amount of direct loss claimed and verified by the Office; and

(b) [~~and~~]based on the unencumbered money available in the Hotel Impact Mitigation Fund for the fiscal year in which the applications are processed.

(6)[4] The [b]Board shall make any required payment within 90 days of the end of the application period, unless an applicant seeks agency review or good cause exists to extend the time.

(7)[5] If an application for reimbursement by the Hotel Impact Mitigation Fund is denied, the entity may seek review by the Executive Director of the Governor's Office of Economic [Development]Opportunity, using the procedures set forth in the Utah Administrative Procedures Act, [Utah Code]Section 63G-4-301.[

(a) A[R]review must be filed within [5]five business days of notice by the Office that the [A]application is denied.

KEY: hotel convention center incentives, tax credits
Date of Last Change: ~~2021 March 14, 2016~~
Notice of Continuation: March 9, 2021
Authorizing, and Implemented or Interpreted Law: ~~[63M-1-3409]~~ [63N-2-509]

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R357-15	Filing ID 53997
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Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state and zip:	Salt Lake City, UT 84111	
Contact person(s):		
Name:	Phone:	Email:
Dane Ishihara	801-538-8864	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R357-15. Enterprise Zone Tax Credit
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The purpose of this rule filing is to make nonsubstantive changes to comply with Executive Order No. 2021-12, update references of GOED to Go Utah because H.B. 348 passed during the 2021 General Session and changed the Governor's Office of Economic Development (GOED) to the Governor's Office of Economic Opportunity (Go Utah), amend how the number of baseline employees is calculated, and amend the documentation required in a tax credit application.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
This rule filing: 1) amends how the number of baseline employees is calculated; 2) amends the documentation required in a tax credit application; 3) amends references of Development to Opportunity; and 4) makes nonsubstantive changes to comply with the Office of Administrative Rules' Rulewriting Manual.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no aggregate anticipated cost or savings to the state budget. These changes merely make technical changes and codify a procedure the office has historically used.

B) Local governments:

There is no aggregate anticipated cost or savings to local governments because local governments are not required to comply with or enforce this rule.

C) Small businesses ("small business" means a business employing 1-49 persons):

There is no aggregate anticipated cost or savings to small businesses because this proposed amendment does not create new obligations for small businesses, nor does it increase the costs associated with any existing obligation. Participation in the program is optional.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no aggregate anticipated cost or savings to non-small businesses because this proposed amendment does not create new obligations for non-small businesses, nor does it increase the costs associated with any existing obligation. Participation in the program is optional.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities because this proposed amendment does not create new obligations for persons other than small businesses, businesses, or local government entities, nor does it increase the costs associated with any existing obligation.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons because participation in the program is optional.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

This rule will have no negative impact on businesses. Participation in the program is optional. Dan Hemmert, Executive Director

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Executive Director of the Governor's Office of Economic Opportunity, Dan Hemmert, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 63N-2-213		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the

agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 11/15/2021

10. This rule change MAY become effective on: 11/22/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Dan Hemmert, Executive Director	Date:	09/28/2021
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R357. Governor, Economic [Development] Opportunity.

R357-15. Enterprise Zone Tax Credit.

R357-15-1. Authority.

(1) Subsection 63N-2-213(6) requires the office to make rules establishing the form and content of an application for an [E]enterprise [Z]zone tax credit, the documentation required to receive an [E]enterprise [Z]zone tax credit, and the administration of the program, including relevant timelines and deadlines.

R357-15-2. Definitions.

~~The definitions below are in addition to or serve to clarify the definitions found in Section 63N-2-202, Section 59-7-614.10, and Section 59-10-1037.~~ In addition to the definitions under Sections 63N-2-202, 59-7-614.10, and 59-10-1037 the following terms are defined:

(1) "Annual investment", "Investment" or "Qualifying investment" means the purchase of most types of tangible property, [E]except land, such as buildings, machinery, vehicles, furniture, and equipment that:

(a) qualifies for depreciation under the Internal Revenue Service's Form 4562; and

(b) is put into service at an operating address of the business entity, that is within an enterprise zone designated by the office for the applicable tax year.

(2) "Baseline" means the ~~highest count of employment positions that existed within the business entity during the previous three taxable years~~ highest number of employee positions that existed at the business entity in the previous taxable year.

(3) "Qualified business use vehicle" means an automobile, light truck, heavy truck, van, utility vehicle, or motorcycle.

(4) "New full-time employee position" means a position that has been newly created in addition to the baseline filled by an employee working at least 30 hours per week

~~for a period of at least six consecutive months; and~~

~~(b)]~~ where the period ends in the tax year for which the credit is claimed.

(5) "Payment documentation" means a;

(a) bank statement;

(b) cleared check;

(c) signed and executed financing agreement; or

(d) signed statement from the seller confirming the payer, payee, date paid, and amount paid for cash payments.

(6) "Purchase documentation" means a bill of sale, contract of sale, receipt, invoice, or other documentation which identifies the buyer, seller, purchase price, item[s] purchased, and the date of purchase.

(7) "Value-added business entity" means a company that creates a change in the physical state or form of a product in a manner that enhances its value, thus expanding the customer base of the product. Examples include milling wheat into flour or making strawberries into jam.

R357-15-3. Application Form and Content.

(1) An application form will be provided by the [O]office and will contain the following content:

- (a) General submission instructions;
- (b) Types of tax credits available to be claimed;
- (c) Criteria for qualification for each tax credit;
- (d) Any required deadlines and relevant timelines; and
- (e) [A]Any required documents and information necessary for verification and approval of the application.

(2) The application shall be created in an electronic format available to the public at business.utah.gov

(3) The application shall also be available in paper format for any person or entity that requests a paper copy via mail or telephone.

R357-15-4. Required Documentation and Verification Information.

(1) To claim any of the tax credits available under Section 63N-2-201 ~~(et. seq.)~~ the following basic information must be provided to the [O]office:

(a) business entity's name that is claiming a tax credit on a Utah Tax filing submission;

(b) contact name, email, phone number, mailing address and relevant title[s];

(c) the physical operating address where the business entity is located including a screenshot of the address pinpoint within the [E]enterprise [Z]zone as found on locate.utah.gov.

(d) the business entity's tax identification number whether a federally provided e[E]mployer i[I]dentification n[N]umber ~~(EIN)~~ or a Social Security Number ~~(SSN)~~; and

(e) information as required under Section R357-15-3.

(2) To qualify for any of the e[E]mployment tax credits ~~[pursuant to]~~ under Subsections 63N-2-213(7)(a) through (d) the following documentation and information is required:

(a) current total of all employees at any point during the tax year including the quarterly total of employees as reported to the Department of Workforce Services for the previous taxable year ~~[last three years]~~;

(b) the number of new full-time employee positions created above the baseline.

~~_____ (i)]~~ For each new full-time employee position above the baseline the applicant must provide:

(~~[A]~~i) e[E]mployee n[N]ame;

(~~[B]~~ii) e[E]mployee wages paid;

(~~[C]~~iii) e[E]mployee hours worked;

(~~[D]~~iv) e[E]mployee Hire date and termination date i[d]f applicable;

(~~[E]~~v) i[f] applicable, proof of employer-sponsored health insurance program if the employer pays at least 50% of the premium cost;

(~~[F]~~vi) i[f] applicable, evidence that the business entity adds value to agricultural commodities through manufacturing or processing, including a list of sample products or processes.

(3) To qualify for the private capital investment tax credit under Subsections 63N-2-213(7)(e) and (f) the following documentation and information is required:

(a) If the private capital investment is for the rehabilitation of a building in an [E]enterprise [Z]zone the applicant must provide:

(i) t[F]he rehabilitated building's physical address;

(ii) d[D]ocuments showing the current owner such as the deed or mortgage documents;

(iii) t[F]he date the building was last occupied;

(iv) a[A] current occupancy permit or certificate;

(v) p[P]urchase documentation of ~~[aH]~~rehabilitation expenses totaling the amount the tax credit is calculated from;

(vi) o[O]ne or more forms of payment documentation validating any rehabilitation expense with an amount claimed equal to or greater than the amount established by the office is paid in entirety; and

(vii[~~]~~) a[A]ny other documentation requested by the [O]office including a sworn affidavit confirming the rehabilitation costs from the owner of the building if applicant is not the owner of the building.

(b) If the private capital investment is a qualifying investment in plant, equipment, or other depreciable property in an [E]enterprise [Z]zone the applicant must provide:

(i) an itemized list of qualified investments being claimed for the credit on a template provided by the office;

(ii) purchase documentation for ~~[aH]~~any investment claimed;~~[and];~~

(iii) one or more forms of payment documentation validating an investment with an amount claimed that is equal to or greater than an amount established by the office is paid in entirety; and

(iv) property and real estate investments also require[~~z~~];

(A) a settlement statement; and

(B) property tax notice with building and land values separated from total property value.

(~~[V]~~v) qualified business use vehicle and other motor vehicle investments also require business use percentage.

R357-15-5. Application Review and Authorization Process for an Enterprise Zone Tax Credit.

(1) The [O]office shall review ~~[aH]~~submitted applications within a reasonable amount of time and approve or deny the application as follows:

(a) t[F]he [O]office shall review ~~[aH]~~tax credits claimed and documentation provided[~~z~~]; and

(b) t[F]he [O]office may request additional documentation or information if the [O]office determines that further verification is required.[
~~_____ i]~~

Failure to comply with a request for additional documentation may result in a denial of the application.

(2) The [O]office will issue tax credit certificates for ~~[aH]~~tax credits for which an applicant has applied, qualified and been approved by the [O]office.[
~~_____ (a)]~~

This [O]office may issue a partial approval if only parts of the application are determined to qualify.

(3) The [O]office must provide written notice that includes its reasoning when denying any or a portion of a tax credit application.

(4) If approved in whole or in part, the [Θ]office shall provide any necessary documents and instructions, approved by the Utah Tax Commission, for claiming the tax credit.

(5)(a) When a business entity is seeking to receive a tax credit for the purchase of a qualified business use vehicle, in conformity with Subsection 63N-2-213(7)(f), the office shall not grant a tax credit for the trade[-]in value of a qualified business use vehicle that the business entity traded into the purchase of the vehicle for which the tax credit is being sought[-];

(b) The amount claimed towards investment in a qualified business use vehicle or a motor vehicle described in [s]Subsection R357-15-4(3)(b)(v) is determined as acquisition cost, less any trade in value in accordance with [s]Subsection R357-15-5(5), multiplied by the business use percentage.

(6) The trade in value in a purchase may be claimed towards a state tax credit for private capital investment that is qualifying investment in plant, equipment, or other depreciable property when, in the purchase that qualifies as investment by the business entity, there was traded in:

(a) plant, equipment, or other depreciable property that qualifies for depreciation on IRS Form 4562 and is not a qualified business use vehicle;

(b) a qualified business use vehicle that was traded in by an individual who is an owner or officer of the applying business entity; or

(c) a building, property, or other real estate investment that qualifies for depreciation on IRS Form 4562.

(6) The [Θ]office may deny claims of investment for software purchases that are cloud services or software as a service.

(7) The [Θ]office may deny claims for investment purchased prior to the three previous taxable years.

(8) The [Θ]office may deny claims for [H]investments purchased from another entity with the same ownership.

(9) The [Θ]office may deny claims if the only connection to an enterprise zone for a business entity is a P.O. Box.

(10) The [Θ]office may deny claims for investment that was transferred from personal use to business use unless the original investment and personal use occurred within the same taxable year the asset was placed into service by the applying business entity.

(11) The [Θ]office may deny claims for state tax credits under Subsections 63N-2-213(7)(a)[-] through (f) if 51% of a business entity's employees that are employed at facilities, that are within a designated enterprise zone, of a business entity do not reside within the county in which the enterprise zone is located or an enterprise zone that is immediately adjacent or contiguous to the county in which the enterprise zone is located as per [s]Section 63N-2-212.

R357-15-6. Appeal of Application Denial.

(1) A hearing contesting the denial of an application in whole or in part of an [E]enterprise [Z]zone [F]tax [C]credit is designated as informal hearings.

KEY: enterprise zones, tax credits

Date of Last Change: 2021[August 12, 2019]

Notice of Continuation: March 11, 2021

Authorizing, and Implemented or Interpreted Law: 63N-2-213(6)

NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal

Utah Admin. Code Ref (R no.): R357-17

Filing ID
53991

Agency Information

1. Department:	Governor	
Agency:	Economic Opportunity	
Building:	World Trade Center	
Street address:	60 E South Temple	
City, state and zip:	Salt Lake City, UT 84111	
Contact person(s):		
Name:	Phone:	Email:
Dane Ishihara	801-538-8864	dishihara@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R357-17. Air Quality Incentive
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
During the 2021 General Session, H.B. 348 passed and made changes to the Industrial Assistance Account. The Air Quality Incentive is no longer an active program under the Industrial Assistance Account. Thus, the purpose of this rule filing is to repeal the rule in its entirety.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The rule is repealed because the program was discontinued.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no aggregate anticipated cost or savings to the state budget. The repeal of this rule is due to the program being discontinued.
B) Local governments:
There is no aggregate anticipated cost or savings to local governments. The repeal of this rule is due to the program being discontinued.

C) Small businesses ("small business" means a business employing 1-49 persons):

There is no aggregate anticipated cost or savings to small businesses. The repeal of this rule is due to the program being discontinued.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no aggregate anticipated cost or savings to non-small businesses. The repeal of this rule is due to the program being discontinued.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The repeal of this rule is due to the program being discontinued.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons. The repeal of this rule is due to the program being discontinued.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

This rule filing will have no impact on businesses. Dan Hemmert, Executive Director

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0

Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Executive Director of the Governor's Office of Economic Opportunity, Dan Hemmert, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Subsection 63N-1-402(2)(b)		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	11/15/2021
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10. This rule change MAY become effective on:	11/22/2021
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Dan Hemmert, Executive Director	Date:	09/23/2021
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R357. Governor, Economic Development.**[R357-17. Air Quality Incentive.****R357-17-1. Authority.**

~~_____ (1) Utah Code Annotated (UCA) Subsection 63N-1-402(2)(b) provides that the Board can make, amend or repeal Rules for the purpose of conducting its business.~~

R357-17-2. Definitions.

~~_____ (1) Terms in these rules are used as defined in Utah Code Annotated (UCA) 63N-3-102.~~

R357-17-3. Application Form and Content.

~~_____ (1) An application form will be provided by the Office and will contain the following content:~~

- ~~_____ (a) General submission instructions;~~
- ~~_____ (b) Applicant provided project description including:~~
 - ~~_____ (i) Emissions profile of the project's operations; and~~
 - ~~_____ (ii) Method of intended pollution control measures applicant is submitting for approval from Division of Air quality.~~
- ~~_____ (c) Other criteria and information as requested by the Office in the application;~~
- ~~_____ (d) Any required deadlines and relevant timelines; and~~
- ~~_____ (e) All required documents and information necessary for verification and approval of the application.~~

~~_____ (2) The application shall be created in an electronic format available to the public at business.utah.gov~~

~~_____ (3) The application shall also be available in paper format for any person or entity that requests a paper copy via mail or telephone.~~

R357-17-4. Criteria for Air Quality Grant.

~~_____ (1) The amount of the grant shall be determined on a case-by-case basis. Factors to be considered include but are not limited to the requirements listed in UCA 63N-1-109.5 and:~~

~~_____ (a) Whether the applicant's industry has been determined by the GOED Board as a Targeted Industry as defined in R357-3-2;~~

~~_____ (b) The financial cost and need of assistance for the project, including whether the Company has secured the technology at the time of application;~~

~~_____ (c) To what extent the best available control technology (BACT) will mitigate projected pollution by applicant;~~

~~_____ (d) Comparison to other technologies available for the relevant emissions profile of the applicant;~~

~~_____ (e) The economic environment, including the unemployment rate and the underemployment rate of the county where the BACT will be installed, at the time of application;~~

~~_____ (f) The location of the project generally and the where the BACT will be installed;~~

~~_____ (g) The average wage level of the forecasted jobs created;~~

~~_____ (h) The overall benefit to the State and potential improvement to the air quality of the non-attainment area;~~

~~_____ (i) The demonstrated support of the local community for the project overall and the BACT; and~~

~~_____ (j) Other factors as reasonably determined by the administrator in consultation with the GOED Board.~~

~~_____ (2) Applicant must show it does not qualify for any other grant or incentive that would finance or cover the cost of the BACT.~~

~~_____ (3) The Department of Environmental Quality (DEQ) will provide a preliminary assessment of the Applicant's proposal and will report on to what extent the proposal meets DEQ and other state and federal legal and regulatory requirements, including whether the equipment to be purchased meets the design requirements~~

~~corresponding to the BACT for the relevant emissions profile of the applicant~~

~~_____ (a) The assessment is subject to change based on conditions outlined in R357-17-6(1); and~~

~~_____ (b) Failure to receive a preliminary approval from this assessment will result in the denial of an application.~~

~~_____ (4) A grant will only be awarded to applications that demonstrate the grant is only being used to lower the financing costs associated with the BACT.~~

R357-17-5. Required Documentation and Verification Information.

~~_____ (1) An applicant may be required to submit the following information and documentation to verify claims and request made in the application:~~

- ~~_____ (a) Balance Sheets;~~
- ~~_____ (b) Income Statements;~~
- ~~_____ (c) Cash Flow Statements;~~
- ~~_____ (d) Bank statements showing purchase;~~
- ~~_____ (e) Invoices and/or receipts showing purchase;~~
- ~~_____ (f) Market analyses;~~
- ~~_____ (g) Analysis showing comparable technology with the BACT;~~
- ~~_____ (h) Workforce data;~~
- ~~_____ (i) Blueprints or other design specifications of BACT purchased;~~
- ~~_____ (j) Business plans of intended use and benefits;~~
- ~~_____ (k) Forecasted new state revenue associated with the BACT;~~
- ~~_____ (l) Forecasted incremental job creation associated with the BACT;~~
- ~~_____ (m) Forecasted wages associated with the BACT; or~~
- ~~_____ (n) Other information as determined by the administrator within its reasonable discretion.~~

~~_____ (2) Information provided by the business entity is subject to the Government Records Access and Management Act. The applicant has the option, at its sole discretion and responsibility, to designate what information provided is private or protected subject to UCA 63G-2-302 and/or UCA 63G-2-305.~~

~~_____ (3) Information provided by the business entity is subject to the Government Records Access and Management Act. The applicant has the option, at its sole discretion and responsibility, to designate what information provided is private or protected subject to UCA 63G-2-302 and/or UCA 63G-2-305.~~

R357-17-6. Conditions Precedent to Grant Disbursement.

~~_____ (1) A grant awarded under Section 63N-3-109.5 is conditional and will be contingent on the applicant gaining all required approvals and permits for a New Source Review as promulgated by the Department of Environmental Quality.~~

~~_____ (a) Copies of all approval documentation and permits must be provided to the administrator before any disbursement of a grant.~~

~~_____ (2) Failure to receive the New Source Review permits from the Department of Environmental Quality will result in rescinding the grant award, and no funding will be awarded.~~

KEY: air quality, incentives, industrial assistance account

Date of Last Change: July 22, 2016

Notice of Continuation: March 11, 2021

Authorizing, and Implemented or Interpreted Law: 63N-1-402(2)(b)]

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R590-122

Filing ID
53986

Agency Information

1. Department:	Insurance
Agency:	Administration
Room no.:	Suite 2300
Building:	Taylorsville State Office Building
Street address:	4315 S 2700 W
City, state and zip:	Taylorsville, UT 84129
Mailing address:	PO Box 146901
City, state and zip:	Salt Lake City, UT 84114-6901
Contact person(s):	
Name:	Phone: Email:
Steve Gooch	801-957-9322 sgooch@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R590-122. Permissible Arbitration Provisions
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is being changed as a result of Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The majority of the changes are being done to fix style issues to bring this rule text more in line with current rulewriting standards. Others are changes to make the language of this rule more clear, and Section R590-122-5 is being updated to use the Department's current language. The changes do not add, remove, or change any regulations or requirements.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature and will not change how the Department functions.

B) Local governments:

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):

There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature and will not affect small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature and will not affect non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. Jonathan T. Pike, Commissioner

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
B) Department head approval of regulatory impact analysis:			
The Commissioner of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.			

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 31A-2-201		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	11/15/2021

10. This rule change MAY become effective on:	11/22/2021
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	09/22/2021
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R590. Insurance, Administration.**R590-122. Permissible Arbitration Provisions.****R590-122-1. Authority.**

This rule is promulgated by the commissioner [of Insurance under the general authority granted under] pursuant to Section 31A-2-201[~~(3)~~].

R590-122-2. Purpose and Scope.

- (1) ~~[This rule recognizes.]~~ The purpose of this rule is to:
- (a) recognize arbitration as an acceptable method of alternative dispute resolution~~[. The rule is not intended to create procedural guidelines for the administration of arbitration proceedings once commenced. This rule is intended to:~~
- ~~_____~~ (a) define the term "permissible arbitration provision" as set forth in Sections 31A-21-313(3)(c) and 31A-21-314(2); and
- (b) provide guidelines ~~[upon which]~~ for disclosure of a contract arbitration provision~~[is to be made]~~.
- (2)~~(a)~~ Except as provided in Subsection ~~([b]3)~~, this rule ~~[is applicable to both]~~ applies to individual and group contracts and ~~[to]~~ all classifications or lines of insurance.
- ~~([b]3)~~ This rule does not apply to individual and group income replacement ~~[policies]~~ insurance or a health benefit plan[s] that ~~[comply]~~ complies with Rule R590-215.

R590-122-3. Definitions.

~~[For the purpose of this rule, the commissioner adopts the definitions as particularly set forth in Sections 78B-11-102 and 31A-1-301, and the following.]~~ Terms used in this rule are defined in Sections 31A-1-301 and 78B-11-102. Additional terms are defined as follows:

- (1) "Compulsory binding arbitration" means a contract provision requiring arbitration as an automatic and exclusive remedy for any dispute involving a contract of insurance to the exclusion of any otherwise available judicial remedy, provided that the claim or controversy exceeds the jurisdictional limit of the small claims court of the state where the action would be brought.
- (2) "Compulsory non-binding arbitration" means a contract provision requiring an insured to exhaust a procedure of extra-judicial arbitration as a condition precedent to the pursuit of an otherwise available judicial remedy.
- (3) "Optional binding arbitration" means a contract provision requiring any party to an insurance contract to submit to arbitration as set forth in ~~[such]~~ the contract at the election of any contracting party, provided that the claim or controversy exceeds the jurisdictional limit of the small claims court of the state where the action would be brought.
- (4) "Permissible arbitration provision" means an arbitration provision in an insurance policy that:
- (a) allows for an action to be brought against an insurer;
- (b) prohibits the insurance policy to be construed according to the laws of another jurisdiction, except as necessary to meet the requirements of compulsory insurance laws of other jurisdictions;
- (c) permits Utah courts jurisdiction over an action against the insurer; and
- (d) limits the right of action against the insurer to less than three years from the date the cause of action accrues.

R590-122-4. Rule.

- (1) Compulsory non-binding arbitration is contrary to the public interest and is not a ~~["]~~permissible arbitration provision.~~["]~~
- (2) Optional binding arbitration at the exclusive election of an insured party is a ~~["]~~permissible arbitration provision.~~["]~~ in which case the disclosure provisions in ~~[paragraph 5 below may not be applicable]~~ Subsection (5) may not apply.

(3) ~~[Both]~~ Compulsory and optional binding arbitration at the election of either the insured or the insurer are ^[2]permissible arbitration provisions.^[2]

(4)(a) ~~[Policy forms]~~ A policy form containing an optional binding arbitration provision[s] for the exclusive election of an insurer will be disapproved under Subsection 31A-21-201(3)(a)(iv). ~~Such~~, and these provisions in any previously approved form[s] are declared not enforceable. ~~[They]~~

(b) A policy form described in Subsection (4)(a) will be construed and applied as if in compliance with the Insurance Code, as permitted under Section 31A-21-107.

(5) Except as excluded in ~~[paragraph 2 above]~~ Subsection (2), each application or binder pertaining to an insurance policy ~~[which]~~ that contains a permissible arbitration provision must include or have attached a prominent statement substantially as follows:

ANY MATTER IN DISPUTE BETWEEN YOU AND THE COMPANY MAY BE SUBJECT TO ARBITRATION AS AN ALTERNATIVE TO COURT ACTION PURSUANT TO THE RULES OF (THE AMERICAN ARBITRATION ASSOCIATION OR OTHER RECOGNIZED ARBITRATOR), A COPY OF WHICH IS AVAILABLE ON REQUEST FROM THE COMPANY. ANY DECISION REACHED BY ARBITRATION SHALL BE BINDING UPON BOTH YOU AND THE COMPANY. THE ARBITRATION AWARD MAY INCLUDE ATTORNEY'S FEES IF ALLOWED BY STATE LAW AND MAY BE ENTERED AS A JUDGMENT IN ANY COURT OF PROPER JURISDICTION.

~~[Such]~~ This statement must be disclosed prior to the execution of the insurance contract between the insurer and the policy holder and, in the case of group insurance, shall be contained in the certificate of insurance or other disclosure of benefits.

(6) ~~[Both compulsory]~~ No compulsory binding arbitration provision[s] and or optional binding arbitration provision[s] may ~~[not]~~ be construed to preclude any dispute resolution by any small claims court having jurisdiction.

(7) ~~[All]~~ Any arbitration provision[s] contained in an insurance ~~[policies]~~ policy shall ~~[be in compliance with the "Utah Arbitration Act" (Title 78B, Chapter 11)]~~ comply with Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(8) ~~[Any such]~~ No agreement for arbitration may ~~[not]~~ obligate an ~~[y]~~ insured to pay more than 50% of the advance payments required to begin the arbitration process.

(9) No arbitration provision may require that arbitration be held at a place further from the residence of the insured than the nearest location of a State Court of General Jurisdiction.

R590-122-5. Severability.

~~[If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.]~~ If any provision of this rule, Rule R590-122, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: insurance law

Date of Last Change: 2021~~[October 3, 2012]~~

Notice of Continuation: June 5, 2017

Authorizing, and Implemented or Interpreted Law: 31A-2-201

NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal and Reenact

Utah Admin. Code Ref (R no.):	R590-128	Filing ID 53988
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Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R590-128. Unfair Discrimination Based on the Failure to Maintain Automobile Insurance (Revised.)

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

This rule is being changed as a result of Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) determined that this rule's original language was confusing and needed to be fixed. The changes are extensive enough that this rule needs to be repealed and reenacted.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

As originally written, this rule identifies prohibited conduct by an insurer and then describes exceptions in which the prohibited conduct is not prohibited. For example, this rule prohibits an automobile insurer from refusing to insure if the applicant did not maintain prior automobile insurance. However, this rule also allows an insurer to do this if it has proof that the insurance applicant has driven in the past three years in violation of a state's compulsory auto insurance laws. This approach requires two steps for an understanding of this rule, one to understand the prohibitions and one to understand the exceptions to those prohibitions.

The proposed rule is substantively identical; it simply eliminates the two steps by combining the prohibitions and the exceptions into a single list of what insurers may do in certain situations.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

There is no anticipated cost or savings to the state budget. The repeal and reenact does not add or remove regulations, nor does it change the way this rule will be applied.

B) Local governments:

There is no anticipated cost or savings to local governments. The repeal and reenact does not add or remove regulations, nor does it change the way this rule will be applied.

C) Small businesses ("small business" means a business employing 1-49 persons):

There is no anticipated cost or savings to small businesses. The repeal and reenact does not add or remove regulations, nor does it change the way this rule will be applied.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no anticipated cost or savings to non-small businesses. The repeal and reenact does not add or remove regulations, nor does it change the way this rule will be applied.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no anticipated cost or savings to any other persons. The repeal and reenact does not add or remove regulations, nor does it change the way this rule will be applied.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There no compliance costs for any affected persons. The repeal and reenact does not add or remove regulations, nor does it change the way this rule will be applied.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. Jonathan T. Pike, Commissioner

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Commissioner of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 31A-2-201

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 11/15/2021

10. This rule change MAY become effective on: 11/22/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	09/22/2021
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R590. Insurance, Administration.

R590-128. Unfair Discrimination Based on the Failure to Maintain Automobile Insurance. (Revised.)

R590-128-1. Authority.

~~This rule is promulgated pursuant to Subsection 31A-23a-402(3), which provides guidelines for determining what is unfair discrimination, and Subsection 31A-23a-402(8), which allows the commissioner to make rules defining unfair marketing acts or practices.~~

R590-128-2. Purpose.

~~The purpose of this rule is to identify certain practices the commissioner finds are unfair and discriminatory.~~

R590-128-3. Scope and Applicability.

~~This rule applies to all automobile insurance contracts delivered or issued for delivery in this state on or after the effective date of this rule.~~

R590-128-4. Rule.

~~(1) The following are hereby identified as acts or practices which, when applied because of failure to maintain automobile insurance for a period of time prior to the issuance of an insurance policy, constitute unfair discrimination among members of the same class:~~

- ~~(a) refusing to insure or refusing to continue to insure;~~
- ~~(b) limiting the amount, extent or kinds of coverage available;~~
- ~~(c) charging applicants different rates for the same coverage by either surcharging one applicant who did not have prior insurance or crediting another applicant who did have prior insurance; or~~
- ~~(d) designating the applicant as a non-standard, sub-standard, or otherwise worse than average risk for the purpose of placing the applicant in a specific company or rating tier.~~

~~(2) In the application of Subsection (1) the following shall apply:~~

- ~~(a) an insurer may reject or surcharge an applicant if the insurer can demonstrate through driving records or other objective means including, but not limited to, a statement from the applicant, that~~

~~the applicant has at any time in the immediately prior three years been operating a motor vehicle in violation of any state's compulsory auto insurance laws; or~~

~~(b) an insurer may reject or surcharge an applicant if the applicant represents that prior insurance existed, but fails to provide evidence to the insurer, or fails to assist the insurer in securing evidence that said prior insurance actually existed.~~

~~(3) Inadvertent lapses in coverage of up to 30 days due to the applicant's reasonable reliance on information from an insurance producer or company that the applicant was insured are not considered to be a failure to maintain automobile insurance for the purposes of this rule.~~

R590-128-5. Penalties.

~~Violations of this rule are punishable pursuant to Section 31A-2-308.]~~

R590-128. Failure to Maintain Prior Owner's or Operator's Security.

R590-128-1. Authority.

~~This rule is promulgated by the commissioner pursuant to Section 31A-2-201.~~

R590-128-2. Purpose and Scope.

~~(1) The purpose of this rule is to identify permissible practices of an insurer when an applicant fails to maintain prior owner's or operator's security.~~

~~(2) This rule applies to an automobile insurance policy delivered or issued for delivery in this state.~~

R590-128-3. Definitions.

~~Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:~~

~~(1) "Failure to maintain prior owner's or operator's security" means:~~

~~(a) operating a motor vehicle at any time during the prior three years in violation of any state's compulsory auto insurance law; or~~

~~(b) after representing that prior owner's or operator's security was maintained, failing to provide or failing to assist an insurer in obtaining evidence of prior owner's or operator's security.~~

~~(2) "Failure to maintain prior owner's or operator's security" does not mean a lapse in coverage of up to 30 days due to an applicant's reasonable reliance on information from a producer or an insurer that the applicant was insured.~~

~~(3) "Owner's or operator's security" has the same meaning as defined in Section 41-12a-103.~~

R590-128-4. Failure to Maintain Prior Owner's or Operator's Security.

~~(1) If an applicant fails to maintain prior owner's or operator's security, an insurer may:~~

- ~~(a) refuse to insure or refuse to continue to insure;~~
- ~~(b) limit the amount, extent, or kinds of coverage available;~~
- ~~(c) surcharge the applicant; or~~
- ~~(d) designate an applicant as a non-standard, sub-standard, or otherwise worse than average risk to place an applicant in a specific insurer or rating tier.~~

~~(2) An insurer shall demonstrate with objective evidence, which may include an applicant's statement, that an applicant failed to maintain prior owner's or operator's security.~~

R590-128-5. Severability.

If any provision of this rule, Rule R590-128, or its application to any person or situation is held to be invalid, such invalidity does not affect any other provision or application of this rule which can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: insurance companies

Date of Last Change: 2021[June 16, 1998]

Notice of Continuation: November 25, 2019

Authorizing, and Implemented or Interpreted Law: 31A-23a-402

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R590-144	Filing ID 53987
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Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S 2700 W	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R590-144. Commercial Aviation Insurance Exemption From Rate and Form Filing
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This rule is being changed in compliance with Executive Order No. 2021-12. During the review of this rule, the Department of Insurance (Department) discovered a number of minor issues that needed to be amended.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The majority of the changes are being done to fix style issues to bring this rule text more in line with current rulewriting standards. Others are changes to make the language of this rule more clear, and the new Section R590-144-7 is being updated to use the Department's current language. The changes do not add, remove, or change any regulations or requirements.

Fiscal Information**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:****A) State budget:**

There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature and will not change how the Department functions.

B) Local governments:

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and will not affect local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):

There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature and will not affect small businesses.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature and will not affect non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. Jonathan T. Pike, Commissioner

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Commissioner of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 31A-2-201	Section 31A-19a-103	Section 31A-21-101
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 11/15/2021

10. This rule change MAY become effective on: 11/22/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date:	09/22/2021
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R590. Insurance, Administration.

R590-144. Commercial Aviation Insurance Exemption From Rate and Form Filing.

R590-144-1. Authority.

This [R]rule is promulgated by the [insurance-]commissioner pursuant to[:

~~(a) Section 31A-2-201, which provides general authority to adopt rules for the implementation of the Utah Insurance Code;~~

~~(b) Section 31A-19a-103, which authorizes the commissioner to exempt any market segment from provisions of Chapter 19a, Rate Regulation; and~~

~~(c) Subsection 31A-21-101(5), which authorizes the commissioner to exempt any class of insurance contract or class of insurer from provisions of Chapter 21, Insurance Contracts in General.] Sections 31A-2-201, 31A-19a-103, and 31A-21-101.~~

R590-144-2. Purpose and Scope.

~~(1) The purpose of this rule is to exempt commercial aviation insurance, as defined in this rule, from the rate filing requirements of [Chapter 19a-]Section 31A-19a-103 and the form filing requirements of [Chapter 21-]Section 31A-21-101.~~

~~[Because of the unique nature of commercial aviation risks, aviation insurance premiums rely on individual risk analysis, underwriting judgment and the negotiation of a sophisticated business transaction between the insurer and an informed insured. Similarly, because of their unique nature, commercial aviation insurance risks have individually tailored manuscript-type policies.~~

~~As the commercial aviation market segment is highly specialized, competitive and global in nature, the commissioner has determined that exemption from the rate and form filing requirements of the Utah Insurance Code will not harm Utah insureds, creditors, or the public and is not necessary to the regulation of these insurance products.~~

R590-144-3. Scope.

~~[(2) This rule applies to:]all insurers licensed to write commercial aviation insurance as it is defined in this rule. This rule also applies to all rate service organizations]~~

~~(a) an insurer licensed to write commercial aviation insurance; and~~

~~(b) a rate service organization.~~

R590-144-4. Definitions.

~~[For the purpose of this rule the commissioner adopts the definitions as particularly set forth in Section 31A-1-301, Section 31A-19a-102, and in addition thereto, the following] Terms used in this rule are defined in Sections 31A-1-301 and 31A-19a-102. Additional terms are defined as follows:~~

(1) "Aviation insurance" means:

(a) ~~[All kinds and classes-]Any type or class of~~ property insurance on an aircraft and ~~[all kinds-]any class of~~ property and interest[s] with respect to, appertaining to, or in connection with any ~~[and all risks or perils-]risk or peril~~ of aerial navigation, transit, or transportation.

(b) ~~[All kinds and classes-]Any type or class of~~ casualty insurance in connection with the construction, repair, maintenance, operation, or use of an aircraft, and ~~[all kinds and classes-]any type or class of~~ casualty insurance in connection with the maintenance, operation, or use of an airport[s], including public liability and property damage.

(2) "Commercial aviation insurance" means any class of aviation insurance except insurance of aircraft used for private business and pleasure.

(3)(a) "Private business and pleasure" means the predominant use of an aircraft for pleasure or personal transportation purposes.

(b) The incidental use of an aircraft [in furtherance of]for an occupational or business interest is permissible.

R590-144-5. Findings.

(1) Pursuant to Subsection 31A-21-101(5), the commissioner finds:

(a) the commercial aviation market segment is highly specialized, competitive, and global in nature;

(b) aviation insurance premiums rely on individual risk analysis, underwriting judgment, and the negotiation of a sophisticated business transaction between the insurer and an informed insured; and

(c) commercial aviation insurance risks have individually tailored manuscript-type policies.

(2) The commissioner finds that exemption from the rate and form filing requirements of Title 31A, Insurance Code, will not harm Utah insureds, creditors, or the public, and is not necessary to the regulation of these insurance products.

R590-144-6. Rule.

(1)(a) ~~[Insurers and-]An insurer or rate service organization[s are]~~ is exempt from the rate filing requirements of Section 31A-19a-203[;] for commercial aviation insurance.

(b) This rule does not exempt ~~[such insurers-]an insurer or rate service organization~~ from the rate standards of Section 31A-19a-201.

(2)(a) ~~[Insurers and-]An insurer or rate service organization[s are]~~ is exempt from the form filing requirements of Section 31A-21-201[;] for commercial aviation insurance.

(b) This rule does not permit ~~[such insurers-]an insurer or rate service organizations~~ to issue a contract[s] that does not conform to ~~[the general provisions of Chapter 21]Section 31A-22-101.~~

(3) ~~[All insurers must-]Each insurer shall~~ maintain fully documented underwriting files ~~[which-]that~~ must be made available to the commissioner upon request[;] and must show that:

(a) ~~[The underwriting file must show that-]rates~~ are not excessive, inadequate, or unfairly discriminatory[;] ~~The file must also show that-]and~~

~~(b) contracts are not inequitable, unfairly discriminatory, misleading, deceptive, obscure, encourage misrepresentation, or [are] otherwise in violation of Utah law.~~

R590-144-[6]7. Severability.

~~[If any provision or clause of this rule or the application of it to any person is for any reason held to be invalid, the remainder of the Rule and the application of any provisions to other persons or circumstances shall not be affected]If any provision of this rule, Rule R590-144, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.~~

KEY: insurance

Date of Last Change: 2021[1994]

Notice of Continuation: February 29, 2016

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-19a-103; 31A-21-101

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R708-45	Filing ID 53990
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Agency Information

1. Department:	Public Safety	
Agency:	Driver License	
Street address:	4501 S 2700 W	
City, state and zip:	Salt Lake City, UT 84129	
Mailing address:	PO Box 144501	
City, state and zip:	Salt Lake City, UT 84114-4501	
Contact person(s):		
Name:	Phone:	Email:
Britani Flores	801-884-8313	bflores@utah.gov
Tara Zamora	801-964-4483	tarazamora@utah.gov
Kim Gibb	801-556-8198	kgibb@utah.gov

Please address questions regarding information on this notice to the agency.

General Information**2. Rule or section catchline:**

R708-45. Renewal or Duplicate License for Utah Residents Temporarily Residing Out of State

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

The purpose of this change is to clarify requirements that will allow more citizens to be able to qualify for the service that is outlined in this rule.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This filing clarifies that applicants for a renewal or duplicate license do not have to be located outside of the in order to qualify for the process. It clarifies that those residents who are not able to visit an office location may have an option to renew or obtain a duplicate license. This filing also removes language that states the Division of Driver License (Division) is required to notify the applicant they are not eligible for the process by mail.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The Department of Public Safety will experience a fiscal benefit from this rule. Less public in the offices would enable the Division to help a larger amount of people each day increasing the amount of fees it is able to accept. This full impact to state government is inestimable because the number of citizens who visit the office each day is not predictable or able to be determined.

B) Local governments:

This rule change is not expected to have any fiscal impact on local governments' revenues or expenditures because this rule affects government only at a state level.

C) Small businesses ("small business" means a business employing 1-49 persons):

This rule change is not expected to have any fiscal impact on small businesses' revenues or expenditures because this rule only affects state government, and private citizens.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because this rule only affects state government, and private citizens.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

Citizens could experience a non fiscal benefit due to lower wait times and more appointment availability because of a decrease of in office traffic.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for affected persons associated with this rule.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

This rule change will not have a fiscal impact on businesses. This rule addresses the expansion of the process for issuance of driver license renewals and duplicates for individuals who are unable to appear in an office to individuals located within the state, and does not affect businesses. Jess L. Anderson, Commissioner

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0

Net Benefits	Fiscal	\$0	\$0	\$0
B) Department head approval of regulatory impact analysis:				
The Commissioner of the Department of Public Safety, Jess L. Anderson, has reviewed and approved this fiscal analysis.				

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:		
Section 53-3-104	Section 53-3-215	Section 53-3-214
Section 53-3-205		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	11/15/2021

10. This rule change MAY become effective on:	11/22/2021
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

Agency Authorization Information

Agency head or designee, and title:	Christopher Caras, Division Director	Date:	09/23/2021
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R708. Public Safety, Driver License.**R708-45. Renewal or Duplicate License for Utah Residents Temporarily Residing Out of State Unable to Appear at a Licensing Office.****R708-45-1. Purpose.**

The purpose of this rule is to establish procedures whereby the division may renew or issue a duplicate regular license certificate to a Utah resident who is temporarily residing outside of the state unable to appear at a licensing office.

R708-45-2. Authority.

This rule is authorized by Sections 53-3-104, ~~and~~ 53-3-205, and 53-3-214.

R708-45-3. Definitions.

Definitions in this rule are found in Section 53-3-102.

In addition:

(a) "DOD applicant" means a person who is a civilian employee of the United States Department of Defense that is stationed outside of the United States, or an immediate family member or dependent residing outside of the United States with such person who has applied for a renewal or duplicate Utah driver license;

(b) "DOS applicant" means a person who is a civilian employee of the United States State Department that is stationed outside of the United States, or an immediate family member or dependent residing outside of the United States with such person who has applied for a renewal or duplicate Utah driver license; and

(c) "military applicant" means a person who is ordered to active duty and stationed outside Utah in any of the armed forces of the United States, or an immediate family member or dependent residing outside of Utah with such person who has applied for a renewal or duplicate Utah driver license.

R708-45-4. Requirements to Renew or Obtain a Duplicate License.

(1) To be eligible to obtain a renewal or duplicate driver license under ~~the provisions of~~ this rule, an applicant shall:

- (a) be a resident of the state ~~of Utah~~;
- ~~[(b) be temporarily residing outside the state of Utah; and]~~
- ~~[(c)](b) [have a valid regular license certificate with a digitized driver license photo on file with the division] demonstrate they are unable to visit a licensing office; and~~
- ~~(c) have a valid regular license certificate with a digitized driver license photo on file with the division.~~

(2) The driver record of the applicant shall not:

- (a) contain evidence that demonstrates the applicant is a hazard to public safety within the five-year period preceding the application if the license has a five-year expiration, or within an eight-year period preceding the application if the license has an eight-year expiration; or
- (b) reflect expiration of more than a ~~[six-month]~~ one-year period at the time the application is submitted to the division unless:
 - (i) the applicant is a DOD applicant, DOS applicant or military applicant; and
 - (ii) the license has not been suspended, disqualified, denied, revoked or cancelled by the division.

(3) An applicant is not eligible to renew or obtain a duplicate license under ~~the provisions of~~ this rule if:

- (a) the applicant holds a:
 - (i) commercial driver license;
 - (ii) limited term driver license; or
 - (iii) driving privilege card;
- (b) the applicant has previously renewed or obtained a duplicate license under ~~the provisions of~~ this rule, unless approved by the division director or designee;
- (c) the applicant has changed their name since the last Utah license was issued; or
- (d) the required license restrictions have changed since the last Utah license was issued.

R708-45-5. Renewal or Duplicate License Application.

(1) To apply for a renewal or duplicate license under ~~the provisions of~~ this rule, an applicant shall submit to the division:

- (a) a license application form, ~~which~~ that can be obtained from the division either online or through the mail;
- (b) verification pursuant to Section 53-3-205 of:
 - (i) identity;
 - (ii) legal presence;
 - (iii) social security number; and

(iv) Utah residency;
 (c) a completed certificate of visual examination form ~~[which] that~~ can be obtained from the division either online or through the mail, if the applicant is age 64 years and 6 months or older at the time of application;

(d) supporting documentation that establishes an applicant is a DOD applicant, DOS applicant or military applicant, if applicable;

(e) proof of successful completion of a certified Motorcycle Safety Foundation rider training course, if the applicant is a military applicant and is applying for an original motorcycle endorsement, and on active duty stationed outside of the state;

(f) written notice of the applicant's intent to apply for a renewal or duplicate license under ~~[the provisions of]~~ this rule; and

(g) applicable fees.

(2) Upon receipt of a completed application packet, the division:

(a) shall review the materials to determine if the applicant is eligible for a renewal or duplicate license; and

(b) may request additional information to determine if the applicant is eligible for a renewal or duplicate license.

(3)(a) If the division determines that the applicant has met ~~[all of]~~ the requirements for a renewal or duplicate license, the division shall issue the license certificate to the applicant.

(b) The license certificate shall expire as provided in Section 53-3-205.

~~_____ (4) If the division determines that the applicant does not meet the requirements for a renewal or duplicate license:~~

~~_____ (a) the division shall issue a denial letter to the applicant that states the reasons for the denial; and~~

~~_____ (b) the applicant may seek agency review as provided by Section 63G-4-301 by filing a written request for review within 30 calendar days after the issuance of the letter.]~~

KEY: renewal license, duplicate license, Utah resident temporarily out-of-state

Date of Last Change: ~~[August 8, 2013]~~ 2021

Notice of Continuation: September 4, 2019

Authorizing, and Implemented or Interpreted Law: 53-3-104; 53-3-205; 53-3-214; 53-3-215

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R884-24P-53	Filing ID 53995
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Agency Information

1. Department:	Tax Commission	
Agency:	Property Tax	
Building:	Utah State Tax Commission	
Street address:	210 N 1950 W	
City, state and zip:	Salt Lake City, UT 84134	
Contact person(s):		
Name:	Phone:	Email:
Chantay Asper	801-297-3901	casper@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R884-24P-53. 2021 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

This amendment is made annually to update the agricultural productive values to be applied by county assessors to land qualifying for valuation and assessment under the Farmland Assessment Act (FAA). These values are recommended to the Commission by the State Farmland Evaluation Advisory Committee, which meets under the authority of Section 59-2-514.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

Section 59-2-515 authorizes the State Tax Commission to make rules regarding Title 59, Chapter 2, Part 5, Farmland Assessment Act. Section 59-2-514 authorizes the State Tax Commission to receive valuation recommendations from the State Farmland Advisory Committee. This amendment sets the acreage value rates for 418 separate class-county combinations. For the 2022 tax year, it is proposed that 117 rates increase slightly, 108 rates decrease and 133 have no change.

This amendment also makes technical changes.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

The aggregate anticipated cost or savings to the state budget is undetermined. However, based on available information, the overall aggregate anticipated cost or savings to the state budget is expected to be minimal as a result of this amendment. The Education Fund receives revenue based on increased or decreased real and personal property valuation, including property assessed under the FAA. Property valuation changes have been recommended by class and by county. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA assessment in the coming year.

B) Local governments:

The aggregate anticipated cost or savings to local governments is undetermined. However, based on

available information, the overall aggregate anticipated cost or savings to local governments is expected to be minimal. Local governmental entities receive tax revenue based on increased or decreased property valuation, including property assessed under FAA. Property valuation changes have been recommended by class and by county. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA assessment in the coming year. Additionally, county assessors' offices statewide will be required to input the new value indicators into their systems to be applied against the acreage for individual properties. This input process is easily accomplished on an annual basis and represents no significant cost in time or money to the assessors' offices.

C) Small businesses ("small business" means a business employing 1-49 persons):

The aggregate anticipated costs or savings to small businesses is undetermined. However, based on available information, the aggregate costs or savings to small businesses as a cohort is expected to be minimal. Each individual small business with property eligible for assessment under the FAA may see a change in value which may result in costs or savings. The extent of these costs or savings are subject to the specific small businesses' unique mix of property class and situs county. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA assessment in the coming year. Additionally, any cost or savings estimate will be further altered by changes to local property tax rates.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

The aggregate anticipated costs or savings to non-small businesses is undetermined. However, based on available information, the aggregate costs or savings to non-small businesses as a cohort is expected to be minimal. Each individual non-small business with property eligible for assessment under the FAA may see a change in value which may result in costs or savings. The extent of costs or savings are subject to the specific non-small businesses' unique mix of property class and situs county. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA assessment in the coming year. Additionally, any cost or savings estimate will be further altered by changes to local property tax rates.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The aggregate anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities (persons) is undetermined. However, based on available information, the aggregate costs or savings to persons as a cohort is expected to be minimal. Each person with property eligible for assessment under the FAA may see a change in value which may result in costs or savings. The extent of costs or savings are subject to the specific person's unique mix of property class and situs county. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA assessment in the coming year. Additionally, any cost or savings estimate will be further altered by changes to local property tax rates.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

County assessors' offices statewide will be required to input the new value indicators into their systems to be applied against the acreage for individual properties. This input process is easily accomplished on an annual basis and represents no significant compliance cost in time or money to the assessors' offices.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

Based on available information, the aggregate costs or savings to businesses as a whole is expected to be minimal. Each business with property eligible for assessment under the FAA may see a change in value which may result in costs or savings. However, the extent of these costs or savings are subject to the specific businesses' unique mix of property class and situs county. Commissioner, Rebecca L. Rockwell

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Commissioner of the Utah State Tax Commission, Rebecca L. Rockwell, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 59-2-515		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	11/15/2021
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10. This rule change MAY become effective on:	11/22/2021
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NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

Agency head or designee, and title:	Rebecca L. Rockwell, Commissioner	Date:	09/29/2021
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R884. Tax Commission, Property Tax.

R884-24P. Property Tax.

R884-24P-53. 2021 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515.

(1) Each year the Property Tax Division shall update and publish schedules to determine the taxable value for land subject to the Farmland Assessment Act on a per acre basis.

(a) The schedules shall be based on the productivity of the various types of agricultural land as determined through crop budgets and net rents.

(b) Proposed schedules shall be transmitted by the Property Tax Division to county assessors for comment before adoption.

(c) County assessors may not deviate from the schedules.

(d) Not all types of agricultural land exist in every county. If no taxable value is shown for a particular county in one of the tables, that classification of agricultural land does not exist in that county.

(2) Property qualifying for agricultural use assessment pursuant to Section 59-2-503 shall be assessed on a per acre basis as follows:

(a) Irrigated farmland shall be assessed under the following classifications.

(i) Irrigated I. The following counties shall assess Irrigated I property based upon the per acre values listed in TABLE 1, Irrigated I:

[TABLE 1
Irrigated I

1) Box Elder	684
2) Cache	582
3) Carbon	442
4) Davis	720
5) Emery	419
6) Iron	673
7) Kane	349
8) Millard	668
9) Salt Lake	625
10) Utah	643
11) Washington	546
12) Weber	691

TABLE 1 Irrigated I	
County	Per Acre Value
<u>Box Elder</u>	<u>\$694</u>
<u>Cache</u>	<u>\$594</u>
<u>Carbon</u>	<u>\$453</u>
<u>Davis</u>	<u>\$735</u>
<u>Emery</u>	<u>\$429</u>
<u>Iron</u>	<u>\$689</u>
<u>Kane</u>	<u>\$358</u>
<u>Millard</u>	<u>\$683</u>
<u>Salt Lake</u>	<u>\$636</u>
<u>Utah</u>	<u>\$656</u>
<u>Washington</u>	<u>\$560</u>
<u>Weber</u>	<u>\$708</u>

(ii) Irrigated II. The following counties shall assess Irrigated II property based upon the per acre values listed in TABLE 2, Irrigated II:

[TABLE 2
Irrigated II

1) Box Elder	601
2) Cache	497
3) Carbon	351
4) Davis	633
5) Duchesne	409
6) Emery	337
7) Grand	325
8) Iron	590
9) Juab	378
10) Kane	270
11) Millard	587
12) Salt Lake	537
13) Sanpete	454
14) Sevier	479
15) Summit	385
16) Tooele	375
17) Utah	555
18) Wasatch	408
19) Washington	465
20) Weber	605]

TABLE 2
Irrigated II

County	Per Acre Value
<u>Box Elder</u>	<u>\$610</u>
<u>Cache</u>	<u>\$507</u>
<u>Carbon</u>	<u>\$360</u>
<u>Davis</u>	<u>\$646</u>
<u>Duchesne</u>	<u>\$418</u>
<u>Emery</u>	<u>\$345</u>
<u>Grand</u>	<u>\$333</u>
<u>Iron</u>	<u>\$604</u>
<u>Juab</u>	<u>\$386</u>
<u>Kane</u>	<u>\$277</u>
<u>Millard</u>	<u>\$600</u>
<u>Salt Lake</u>	<u>\$546</u>
<u>Sanpete</u>	<u>\$465</u>
<u>Sevier</u>	<u>\$490</u>
<u>Summit</u>	<u>\$395</u>
<u>Tooele</u>	<u>\$384</u>
<u>Utah</u>	<u>\$566</u>
<u>Wasatch</u>	<u>\$419</u>
<u>Washington</u>	<u>\$477</u>
<u>Weber</u>	<u>\$620</u>

(iii) Irrigated III. The following counties shall assess Irrigated III property based upon the per acre values listed in TABLE 3, Irrigated III:

[TABLE 3
Irrigated III

1) Beaver	513
2) Box Elder	472
3) Cache	376
4) Carbon	235
5) Davis	510
6) Duchesne	287
7) Emery	211
8) Garfield	177
9) Grand	206
10) Iron	468
11) Juab	255
12) Kane	149
13) Millard	464
14) Morgan	324
15) Piute	280
16) Rich	149
17) Salt Lake	410
18) San Juan	151
19) Sanpete	334
20) Sevier	356
21) Summit	264
22) Tooele	251
23) Uintah	310
24) Utah	427
25) Wasatch	283
26) Washington	342
27) Wayne	275
28) Weber	481]

TABLE 3
Irrigated III

County	Per Acre Value
<u>Beaver</u>	<u>\$515</u>
<u>Box Elder</u>	<u>\$479</u>
<u>Cache</u>	<u>\$384</u>
<u>Carbon</u>	<u>\$241</u>
<u>Davis</u>	<u>\$521</u>
<u>Duchesne</u>	<u>\$294</u>
<u>Emery</u>	<u>\$216</u>
<u>Garfield</u>	<u>\$181</u>
<u>Grand</u>	<u>\$211</u>
<u>Iron</u>	<u>\$479</u>
<u>Juab</u>	<u>\$261</u>
<u>Kane</u>	<u>\$153</u>
<u>Millard</u>	<u>\$474</u>
<u>Morgan</u>	<u>\$333</u>
<u>Piute</u>	<u>\$287</u>
<u>Rich</u>	<u>\$153</u>
<u>Salt Lake</u>	<u>\$417</u>
<u>San Juan</u>	<u>\$153</u>
<u>Sanpete</u>	<u>\$342</u>
<u>Sevier</u>	<u>\$364</u>
<u>Summit</u>	<u>\$271</u>
<u>Tooele</u>	<u>\$257</u>
<u>Uintah</u>	<u>\$317</u>

<u>Utah</u>	<u>\$436</u>
<u>Wasatch</u>	<u>\$290</u>
<u>Washington</u>	<u>\$351</u>
<u>Wayne</u>	<u>\$282</u>
<u>Weber</u>	<u>\$493</u>

(iv) Irrigated IV. The following counties shall assess Irrigated IV property based upon the per acre values listed in TABLE 4, Irrigated IV:

[TABLE 4
Irrigated IV

1) Beaver	423
2) Box Elder	391
3) Cache	292
4) Carbon	150
5) Daggett	159
6) Davis	425
7) Duchesne	201
8) Emery	132
9) Garfield	95
10) Grand	125
11) Iron	383
12) Juab	169
13) Kane	66
14) Millard	377
15) Morgan	240
16) Piute	195
17) Rich	68
18) Salt Lake	317
19) San Juan	68
20) Sanpete	250
21) Sevier	273
22) Summit	181
23) Tooele	171
24) Uintah	230
25) Utah	342
26) Wasatch	201
27) Washington	258
28) Wayne	194
29) Weber	393]

TABLE 4 Irrigated IV	
County	Per Acre Value
<u>Beaver</u>	<u>\$425</u>
<u>Box Elder</u>	<u>\$397</u>
<u>Cache</u>	<u>\$298</u>
<u>Carbon</u>	<u>\$154</u>
<u>Daggett</u>	<u>\$163</u>
<u>Davis</u>	<u>\$434</u>
<u>Duchesne</u>	<u>\$206</u>
<u>Emery</u>	<u>\$135</u>
<u>Garfield</u>	<u>\$97</u>
<u>Grand</u>	<u>\$128</u>
<u>Iron</u>	<u>\$392</u>
<u>Juab</u>	<u>\$173</u>
<u>Kane</u>	<u>\$68</u>
<u>Millard</u>	<u>\$385</u>

<u>Morgan</u>	<u>\$247</u>
<u>Piute</u>	<u>\$200</u>
<u>Rich</u>	<u>\$70</u>
<u>Salt Lake</u>	<u>\$322</u>
<u>San Juan</u>	<u>\$69</u>
<u>Sanpete</u>	<u>\$256</u>
<u>Sevier</u>	<u>\$279</u>
<u>Summit</u>	<u>\$186</u>
<u>Tooele</u>	<u>\$175</u>
<u>Uintah</u>	<u>\$235</u>
<u>Utah</u>	<u>\$349</u>
<u>Wasatch</u>	<u>\$206</u>
<u>Washington</u>	<u>\$264</u>
<u>Wayne</u>	<u>\$199</u>
<u>Weber</u>	<u>\$402</u>

(b) Fruit orchards. The following counties shall assess fruit orchards [Fruit Orchards] based upon the per acre values listed in TABLE 5, Fruit Orchards:

[TABLE 5
Fruit Orchards

1) Beaver	451
2) Box Elder	489
3) Cache	451
4) Carbon	451
5) Davis	493
6) Duchesne	451
7) Emery	451
8) Garfield	451
9) Grand	451
10) Iron	451
11) Juab	451
12) Kane	451
13) Millard	451
14) Morgan	451
15) Piute	451
16) Salt Lake	451
17) San Juan	451
18) Sanpete	451
19) Sevier	451
20) Summit	451
21) Tooele	451
22) Uintah	451
23) Utah	496
24) Wasatch	451
25) Washington	534
26) Wayne	451
27) Weber	493]

TABLE 5 Fruit Orchards	
County	Per Acre Value
<u>Beaver</u>	<u>\$396</u>
<u>Box Elder</u>	<u>\$430</u>
<u>Cache</u>	<u>\$396</u>
<u>Carbon</u>	<u>\$396</u>
<u>Davis</u>	<u>\$433</u>

<u>Duchesne</u>	<u>\$396</u>
<u>Emery</u>	<u>\$396</u>
<u>Garfield</u>	<u>\$396</u>
<u>Grand</u>	<u>\$396</u>
<u>Iron</u>	<u>\$396</u>
<u>Juab</u>	<u>\$396</u>
<u>Kane</u>	<u>\$396</u>
<u>Millard</u>	<u>\$396</u>
<u>Morgan</u>	<u>\$396</u>
<u>Piute</u>	<u>\$396</u>
<u>Salt Lake</u>	<u>\$396</u>
<u>San Juan</u>	<u>\$396</u>
<u>Sanpete</u>	<u>\$396</u>
<u>Sevier</u>	<u>\$396</u>
<u>Summit</u>	<u>\$396</u>
<u>Tooele</u>	<u>\$396</u>
<u>Uintah</u>	<u>\$396</u>
<u>Utah</u>	<u>\$436</u>
<u>Wasatch</u>	<u>\$396</u>
<u>Washington</u>	<u>\$469</u>
<u>Wayne</u>	<u>\$396</u>
<u>Weber</u>	<u>\$433</u>

(c) Meadow IV. The following counties shall assess Meadow IV property based upon per acre values listed in TABLE 6, Meadow IV:

[TABLE 6
Meadow IV

1) Beaver	217
2) Box Elder	219
3) Cache	223
4) Carbon	111
5) Daggett	131
6) Davis	227
7) Duchesne	141
8) Emery	116
9) Garfield	88
10) Grand	113
11) Iron	222
12) Juab	130
13) Kane	91
14) Millard	164
15) Morgan	166
16) Piute	160
17) Rich	89
18) Salt Lake	201
19) Sanpete	164
20) Sevier	170
21) Summit	169
22) Tooele	155
23) Uintah	174
24) Utah	214
25) Wasatch	175
26) Washington	191
27) Wayne	144
28) Weber	258]

TABLE 6 Meadow IV	
County	Per Acre Value
<u>Beaver</u>	<u>\$218</u>
<u>Box Elder</u>	<u>\$222</u>
<u>Cache</u>	<u>\$227</u>
<u>Carbon</u>	<u>\$114</u>
<u>Daggett</u>	<u>\$134</u>
<u>Davis</u>	<u>\$232</u>
<u>Duchesne</u>	<u>\$144</u>
<u>Emery</u>	<u>\$119</u>
<u>Garfield</u>	<u>\$90</u>
<u>Grand</u>	<u>\$116</u>
<u>Iron</u>	<u>\$227</u>
<u>Juab</u>	<u>\$133</u>
<u>Kane</u>	<u>\$93</u>
<u>Millard</u>	<u>\$168</u>
<u>Morgan</u>	<u>\$171</u>
<u>Piute</u>	<u>\$164</u>
<u>Rich</u>	<u>\$91</u>
<u>Salt Lake</u>	<u>\$204</u>
<u>Sanpete</u>	<u>\$168</u>
<u>Sevier</u>	<u>\$174</u>
<u>Summit</u>	<u>\$173</u>
<u>Tooele</u>	<u>\$159</u>
<u>Uintah</u>	<u>\$178</u>
<u>Utah</u>	<u>\$218</u>
<u>Wasatch</u>	<u>\$180</u>
<u>Washington</u>	<u>\$196</u>
<u>Wayne</u>	<u>\$148</u>
<u>Weber</u>	<u>\$264</u>

(d) Dry land shall be classified as one of the following two categories and shall be assessed on a per acre basis as follows:

(i) Dry III. The following counties shall assess Dry III property based upon the per acre values listed in TABLE 7, Dry III:

[TABLE 7
Dry III

1) Beaver	47
2) Box Elder	80
3) Cache	100
4) Carbon	41
5) Davis	44
6) Duchesne	46
7) Garfield	40
8) Grand	41
9) Iron	41
10) Juab	44
11) Kane	40
12) Millard	39
13) Morgan	55

14)	Rich	40
15)	Salt Lake	48
16)	San Juan	46
17)	Sanpete	46
18)	Summit	40
19)	Tooele	44
20)	Uintah	46
21)	Utah	43
22)	Wasatch	40
23)	Washington	40
24)	Weber	68]

TABLE 7
Dry III

County	Per Acre Value
Beaver	\$47
Box Elder	\$81
Cache	\$102
Carbon	\$42
Davis	\$45
Duchesne	\$47
Garfield	\$41
Grand	\$42
Iron	\$42
Juab	\$45
Kane	\$41
Millard	\$40
Morgan	\$57
Rich	\$41
Salt Lake	\$49
San Juan	\$47
Sanpete	\$47
Summit	\$41
Tooele	\$45
Uintah	\$47
Utah	\$44
Wasatch	\$41
Washington	\$41
Weber	\$70

(ii) Dry IV. The following counties shall assess Dry IV property based upon the per acre values listed in TABLE 8, Dry IV:

TABLE 8
Dry IV

1)	Beaver	14
2)	Box Elder	50
3)	Cache	70
4)	Carbon	13
5)	Davis	13
6)	Duchesne	16
7)	Garfield	13
8)	Grand	13
9)	Iron	13
10)	Juab	13
11)	Kane	13

12)	Millard	12
13)	Morgan	22
14)	Rich	13
15)	Salt Lake	15
16)	San Juan	17
17)	Sanpete	16
18)	Summit	13
19)	Tooele	13
20)	Uintah	16
21)	Utah	13
22)	Wasatch	13
23)	Washington	12
24)	Weber	37]

TABLE 8
Dry IV

County	Per Acre Value
Beaver	\$14
Box Elder	\$51
Cache	\$71
Carbon	\$13
Davis	\$13
Duchesne	\$16
Garfield	\$13
Grand	\$13
Iron	\$13
Juab	\$13
Kane	\$13
Millard	\$12
Morgan	\$23
Rich	\$13
Salt Lake	\$15
San Juan	\$17
Sanpete	\$16
Summit	\$13
Tooele	\$13
Uintah	\$16
Utah	\$13
Wasatch	\$13
Washington	\$12
Weber	\$38

(e) Grazing land shall be classified as one of the following four categories and shall be assessed on a per acre basis as follows:

(i) Graze 1. The following counties shall assess Graze I property based upon the per acre values listed in TABLE 9, Graze I:

TABLE 9
GR-I

1)	Beaver	65
2)	Box Elder	63
3)	Cache	60
4)	Carbon	44
5)	Daggett	44

6)	Davis	52
7)	Duchesne	58
8)	Emery	59
9)	Garfield	64
10)	Grand	65
11)	Iron	63
12)	Juab	55
13)	Kane	63
14)	Millard	64
15)	Morgan	57
16)	Piute	76
17)	Rich	54
18)	Salt Lake	62
19)	San Juan	65
20)	Sanpete	53
21)	Sevier	55
22)	Summit	60
23)	Tooele	60
24)	Uintah	67
25)	Utah	56
26)	Wasatch	44
27)	Washington	54
28)	Wayne	74
29)	Weber	60]

TABLE 9
Graze I

<u>County</u>	<u>Per Acre Value</u>
<u>Beaver</u>	<u>\$65</u>
<u>Box Elder</u>	<u>\$64</u>
<u>Cache</u>	<u>\$61</u>
<u>Carbon</u>	<u>\$45</u>
<u>Daggett</u>	<u>\$45</u>
<u>Davis</u>	<u>\$53</u>
<u>Duchesne</u>	<u>\$59</u>
<u>Emery</u>	<u>\$60</u>
<u>Garfield</u>	<u>\$66</u>
<u>Grand</u>	<u>\$67</u>
<u>Iron</u>	<u>\$65</u>
<u>Juab</u>	<u>\$56</u>
<u>Kane</u>	<u>\$65</u>
<u>Millard</u>	<u>\$65</u>
<u>Morgan</u>	<u>\$59</u>
<u>Piute</u>	<u>\$78</u>
<u>Rich</u>	<u>\$55</u>
<u>Salt Lake</u>	<u>\$63</u>
<u>San Juan</u>	<u>\$66</u>
<u>Sanpete</u>	<u>\$54</u>
<u>Sevier</u>	<u>\$56</u>
<u>Summit</u>	<u>\$62</u>
<u>Tooele</u>	<u>\$62</u>
<u>Uintah</u>	<u>\$69</u>
<u>Utah</u>	<u>\$57</u>
<u>Wasatch</u>	<u>\$45</u>
<u>Washington</u>	<u>\$55</u>

<u>Wayne</u>	<u>\$76</u>
<u>Weber</u>	<u>\$61</u>

(ii) Graze II. The following counties shall assess Graze II property based upon the per acre values listed in TABLE 10, Graze II:[GR II:]

TABLE 10
GR II

1)	Beaver	20
2)	Box Elder	20
3)	Cache	19
4)	Carbon	13
5)	Daggett	12
6)	Davis	16
7)	Duchesne	16
8)	Emery	18
9)	Garfield	19
10)	Grand	19
11)	Iron	19
12)	Juab	16
13)	Kane	20
14)	Millard	21
15)	Morgan	18
16)	Piute	21
17)	Rich	17
18)	Salt Lake	18
19)	San Juan	22
20)	Sanpete	15
21)	Sevier	15
22)	Summit	17
23)	Tooele	17
24)	Uintah	23
25)	Utah	20
26)	Wasatch	14
27)	Washington	18
28)	Wayne	23
29)	Weber	17]

TABLE 10
Graze II

<u>County</u>	<u>Per Acre Value</u>
<u>Beaver</u>	<u>\$20</u>
<u>Box Elder</u>	<u>\$20</u>
<u>Cache</u>	<u>\$19</u>
<u>Carbon</u>	<u>\$13</u>
<u>Daggett</u>	<u>\$12</u>
<u>Davis</u>	<u>\$16</u>
<u>Duchesne</u>	<u>\$16</u>
<u>Emery</u>	<u>\$18</u>
<u>Garfield</u>	<u>\$19</u>
<u>Grand</u>	<u>\$19</u>
<u>Iron</u>	<u>\$19</u>
<u>Juab</u>	<u>\$16</u>
<u>Kane</u>	<u>\$21</u>
<u>Millard</u>	<u>\$21</u>
<u>Morgan</u>	<u>\$19</u>
<u>Piute</u>	<u>\$22</u>
<u>Rich</u>	<u>\$17</u>

<u>Salt Lake</u>	<u>\$18</u>
<u>San Juan</u>	<u>\$22</u>
<u>Sanpete</u>	<u>\$15</u>
<u>Sevier</u>	<u>\$15</u>
<u>Summit</u>	<u>\$17</u>
<u>Tooele</u>	<u>\$17</u>
<u>Uintah</u>	<u>\$24</u>
<u>Utah</u>	<u>\$20</u>
<u>Wasatch</u>	<u>\$14</u>
<u>Washington</u>	<u>\$18</u>
<u>Wayne</u>	<u>\$24</u>
<u>Weber</u>	<u>\$17</u>

(iii) Graze III. The following counties shall assess Graze III property based upon the per acre values in TABLE 11, Graze III:~~[GR III:]~~

~~[TABLE 11
GR III]~~

1) Beaver	15
2) Box Elder	14
3) Cache	12
4) Carbon	11
5) Daggett	10
6) Davis	11
7) Duchesne	12
8) Emery	12
9) Garfield	13
10) Grand	13
11) Iron	13
12) Juab	12
13) Kane	13
14) Millard	13
15) Morgan	11
16) Piute	15
17) Rich	11
18) Salt Lake	13
19) San Juan	14
20) Sanpete	12
21) Sevier	12
22) Summit	12
23) Tooele	12
24) Uintah	16
25) Utah	12
26) Wasatch	11
27) Washington	11
28) Wayne	15
29) Weber	12

<u>TABLE 11</u> <u>Graze III</u>	
<u>County</u>	<u>Per Acre Value</u>
<u>Beaver</u>	<u>\$15</u>
<u>Box Elder</u>	<u>\$14</u>
<u>Cache</u>	<u>\$12</u>
<u>Carbon</u>	<u>\$11</u>
<u>Daggett</u>	<u>\$10</u>
<u>Davis</u>	<u>\$11</u>
<u>Duchesne</u>	<u>\$12</u>

<u>Emery</u>	<u>\$12</u>
<u>Garfield</u>	<u>\$13</u>
<u>Grand</u>	<u>\$13</u>
<u>Iron</u>	<u>\$13</u>
<u>Juab</u>	<u>\$12</u>
<u>Kane</u>	<u>\$13</u>
<u>Millard</u>	<u>\$13</u>
<u>Morgan</u>	<u>\$11</u>
<u>Piute</u>	<u>\$15</u>
<u>Rich</u>	<u>\$11</u>
<u>Salt Lake</u>	<u>\$13</u>
<u>San Juan</u>	<u>\$14</u>
<u>Sanpete</u>	<u>\$12</u>
<u>Sevier</u>	<u>\$12</u>
<u>Summit</u>	<u>\$12</u>
<u>Tooele</u>	<u>\$12</u>
<u>Uintah</u>	<u>\$16</u>
<u>Utah</u>	<u>\$12</u>
<u>Wasatch</u>	<u>\$11</u>
<u>Washington</u>	<u>\$11</u>
<u>Wayne</u>	<u>\$15</u>
<u>Weber</u>	<u>\$12</u>

(iv) Graze IV. The following counties shall assess Graze IV property based upon the per acre values listed in TABLE 12, Graze IV:~~[GR IV:]~~

~~[TABLE 12
GR IV]~~

1) Beaver	5
2) Box Elder	5
3) Cache	5
4) Carbon	5
5) Daggett	5
6) Davis	5
7) Duchesne	5
8) Emery	5
9) Garfield	5
10) Grand	5
11) Iron	5
12) Juab	5
13) Kane	5
14) Millard	5
15) Morgan	5
16) Piute	5
17) Rich	5
18) Salt Lake	5
19) San Juan	5
20) Sanpete	5
21) Sevier	5
22) Summit	5
23) Tooele	5
24) Uintah	5
25) Utah	5
26) Wasatch	5
27) Washington	5
28) Wayne	5
29) Weber	5

TABLE 12
Graze IV

County	Per Acre Value
<u>Beaver</u>	<u>\$5</u>
<u>Box Elder</u>	<u>\$5</u>
<u>Cache</u>	<u>\$5</u>
<u>Carbon</u>	<u>\$5</u>
<u>Daggett</u>	<u>\$5</u>
<u>Davis</u>	<u>\$5</u>
<u>Duchesne</u>	<u>\$5</u>
<u>Emery</u>	<u>\$5</u>
<u>Garfield</u>	<u>\$5</u>
<u>Grand</u>	<u>\$5</u>
<u>Iron</u>	<u>\$5</u>
<u>Juab</u>	<u>\$5</u>
<u>Kane</u>	<u>\$5</u>
<u>Millard</u>	<u>\$5</u>
<u>Morgan</u>	<u>\$5</u>
<u>Piute</u>	<u>\$5</u>
<u>Rich</u>	<u>\$5</u>
<u>Salt Lake</u>	<u>\$5</u>
<u>San Juan</u>	<u>\$5</u>
<u>Sanpete</u>	<u>\$5</u>
<u>Sevier</u>	<u>\$5</u>
<u>Summit</u>	<u>\$5</u>
<u>Tooele</u>	<u>\$5</u>
<u>Uintah</u>	<u>\$5</u>
<u>Utah</u>	<u>\$5</u>
<u>Wasatch</u>	<u>\$5</u>
<u>Washington</u>	<u>\$5</u>
<u>Wayne</u>	<u>\$5</u>
<u>Weber</u>	<u>\$5</u>

(f) Nonproductive Land. The following counties shall assess property classified as Nonproductive Land based upon the per acre value listed in TABLE 13, Nonproductive Land:

[TABLE 13
Nonproductive Land

— All Counties — 5]

TABLE 13 Nonproductive Land	
County	Per Acre Value
<u>Beaver</u>	<u>\$5</u>
<u>Box Elder</u>	<u>\$5</u>

<u>Cache</u>	<u>\$5</u>
<u>Carbon</u>	<u>\$5</u>
<u>Daggett</u>	<u>\$5</u>
<u>Davis</u>	<u>\$5</u>
<u>Duchesne</u>	<u>\$5</u>
<u>Emery</u>	<u>\$5</u>
<u>Garfield</u>	<u>\$5</u>
<u>Grand</u>	<u>\$5</u>
<u>Iron</u>	<u>\$5</u>
<u>Juab</u>	<u>\$5</u>
<u>Kane</u>	<u>\$5</u>
<u>Millard</u>	<u>\$5</u>
<u>Morgan</u>	<u>\$5</u>
<u>Piute</u>	<u>\$5</u>
<u>Rich</u>	<u>\$5</u>
<u>Salt Lake</u>	<u>\$5</u>
<u>San Juan</u>	<u>\$5</u>
<u>Sanpete</u>	<u>\$5</u>
<u>Sevier</u>	<u>\$5</u>
<u>Summit</u>	<u>\$5</u>
<u>Tooele</u>	<u>\$5</u>
<u>Uintah</u>	<u>\$5</u>
<u>Utah</u>	<u>\$5</u>
<u>Wasatch</u>	<u>\$5</u>
<u>Washington</u>	<u>\$5</u>
<u>Wayne</u>	<u>\$5</u>
<u>Weber</u>	<u>\$5</u>

(3) This rule shall be implemented and become binding beginning January 1, 2022.

KEY: taxation, personal property, property tax, appraisals

Date of Last Change: 2021[November 30, 2020]

Notice of Continuation: November 10, 2016

Authorizing, and Implemented or Interpreted Law: Art. XIII, Sec 2; 9-2-201; 11-13-302; 41-1a-202; 41-1a-301; 59-1-210; 59-2-102; 59-2-103; 59-2-103.5; 59-2-104; 59-2-201; 59-2-210; 59-2-211; 59-2-301; 59-2-301.3; 59-2-302; 59-2-303; 59-2-303.1; 59-2-305; 59-2-306; 59-2-401; 59-2-402; 59-2-404; 59-2-405; 59-2-405.1; 59-2-406; 59-2-508; 59-2-514; 59-2-515; 59-2-701; 59-2-702; 59-2-703; 59-2-704; 59-2-704.5; 59-2-705; 59-2-801; 59-2-918 through 59-2-924; 59-2-1002; 59-2-1004; 59-2-1005; 59-2-1006; 59-2-1101; 59-2-1102; 59-2-1104; 59-2-1106; 59-2-1107 through 59-2-1109; 59-2-1113; 59-2-1115; 59-2-1202; 59-2-1202(5); 59-2-1302; 59-2-1303; 59-2-1308.5; 59-2-1317; 59-2-1328; 59-2-1330; 59-2-1347; 59-2-1351; 59-2-1365; 59-2-1703

End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at adminrules.utah.gov. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R156-24b	Filing No. 53779
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Agency Information

1. Department:	Commerce	
Agency:	Occupational and Professional Licensing	
Building:	Heber M Wells Building	
Street address:	160 E 300 S	
City, state, zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state, zip:	Salt Lake City, UT 84114-6741	
Contact person(s):		
Name:	Phone:	Email:
Jeff Busjahn	801-530-6789	jbusjahn@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:	R156-24b. Physical Therapy Practice Act Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:	Title 58, Chapter 24b, provides for the licensure and regulation of physical therapists and physical therapy assistants. Subsection 58-1-106(1)(a) provides that the Division of Occupational and Professional Licensing (Division) may adopt and enforce rules to administer Title

58. Subsection 58-1-202(1)(a) provides that the Physical Therapy Licensing Board's duties, functions, and responsibilities includes recommending to the director appropriate rules. This rule was enacted to clarify the provisions of Title 58, Chapter 24b, with respect to physical therapists and physical therapy assistants.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

Since this rule was last reviewed in October 2016, this rule has been amended four times. The Division has received no written comments with respect to this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 24b. This rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

Agency Authorization Information

Agency head or designee, and title:	Mark B. Steinagel, Division Director	Date:	06/18/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R156-26a	Filing No. 53780
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Agency Information

1. Department:	Commerce	
Agency:	Occupational and Professional Licensing	
Building:	Heber M Wells Building	
Street address:	160 E 300 S	
City, state, zip:	Salt Lake City, UT 84111-2316	
Mailing address:	PO Box 146741	
City, state, zip:	Salt Lake City, UT 84114-6741	
Contact person(s):		
Name:	Phone:	Email:
Jana Johansen	801-530-6621	janajohansen@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:
R156-26a. Certified Public Accountant Licensing Act Rule
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Title 58, Chapter 26a, provides for the licensure and regulation of certified public accountants (CPAs) and CPA firms. Subsection 58-1-106(1)(a) provides that the Division of Occupational and Professional Licensing (Division) may adopt and enforce rules to administer Title 58. Subsection 58-1-202(1)(a) provides that the Utah Board of Accountancy's duties, functions, and responsibilities includes recommending to the director appropriate rules. This rule was enacted to clarify the provisions of Title 58, Chapter 26a, with respect to CPAs and CPA firms.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
Since this rule was last reviewed in October 2016, this rule has been amended two times (2017 and 2019). The Division did receive an October 23, 2017, written comment from Anita Christensen-Uibel, CPA regarding the proposed amendments and her concerns about the change in continuing professional education (CPE) hours and CPE reporting period. The Division and Board reviewed Ms. Christensen-Uibel's comments and concerns but after review and consideration made the proposed amendments effective on November 7, 2017.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 26a. This rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

Agency Authorization Information

Agency head or designee, and title:	Mark B. Steinagel, Division Director	Date:	05/12/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R918-5	Filing ID: 52125
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Agency Information

1. Department:	Transportation	
Agency:	Operations, Maintenance	
Room no.:	Administrative Suite, 1st Floor	
Building:	Calvin Rampton	
Street address:	4501 S 2700 W	
City, state and zip:	Taylorsville, UT	
Mailing address:	PO Box 148455	
City, state and zip:	Salt Lake City, UT 84114-8455	
Contact person(s):		
Name:	Phone:	Email:
Linda Hull	801-965-4253	lhull@utah.gov
Becky Lewis	801-965-4026	blewis@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov
Lori Edwards	801-965-4048	loriedwards@agutah.gov

Please address questions regarding information on this notice to the agency.

General Information**2. Rule catchline:**

R918-5. Construction or Improvement of Highway

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 72-6-107(5) requires the Department of Transportation (Department) to follow procedures included in the Administrative Rulemaking Act to establish regulations contained in this rule.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department has not received any written comments during and since the last five-year review of this rule from interested persons supporting or opposing this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

Section 72-6-107 mandates this rule, and that section is still effective law. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Carlos M. Bracerias, PE, Executive Director	Date:	09/24/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R993-100	Filing ID: 52222
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Agency Information

1. Department:	Workforce Services	
Agency:	Rehabilitation	
Building:	Olene Walker Building	
Street address:	140 E 300 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 45244	
City, state and zip:	Salt Lake City, UT 84145-0244	
Contact person(s):		
Name:	Phone:	Email:
Amanda B. McPeck	801-526-9653	ampeck@utah.gov

Please address questions regarding information on this notice to the agency.

General Information**2. Rule catchline:**

R993-100. Authority, Purpose and Administrative Review

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 35A-1-104(1) of the Utah Workforce Services Code authorizes the Department of Workforce Services (Department) to adopt rules as authorized by Title 35A. Section 35A-1-303 authorizes the Department to adopt rules governing adjudicative procedures. The Utah Administrative Procedures Act, Title 63G, Chapter 4, defines the procedures the Department must follow in administrative hearings. Section 35A-13-103 places the Utah State Office of Rehabilitation under the direction of the Department. Subsection 35A-13-103(5) allows the Utah State Office of Rehabilitation to adopt rules related to administering the state plan for vocational rehabilitation.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No written comments have been received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule continues to be necessary because it provides standards and procedures for adjudication of disputes under the vocational rehabilitation program. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Casey R. Cameron, Executive Director	Date:	09/15/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R993-200	Filing ID: 52219
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Agency Information

1. Department:	Workforce Services	
Agency:	Rehabilitation	
Building:	Olene Walker Building	
Street address:	140 E 300 S	

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 45244	
City, state and zip:	Salt Lake City, UT 84145-0244	
Contact person(s):		
Name:	Phone:	Email:
Amanda B. McPeck	801-526-9653	ampeck@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R993-200. Order of Selection
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 35A-1-104(1) of the Utah Workforce Services Code authorizes the Department of Workforce Services (Department) to adopt rules as authorized by Title 35A. Section 35A-13-103 places the Utah State Office of Rehabilitation under the direction of the Department. Subsection 35A-13-103(5) allows the Utah State Office of Rehabilitation to adopt rules related to administering the state plan for vocational rehabilitation. 29 U.S.C. 721 directs the state agency responsible for administering the state plan for vocational rehabilitation services to establish eligibility criteria for individuals with the most significant disabilities.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule continues to be necessary because it provides definitions and procedures for providing services and determining order of selection for services consistent with federal and state law. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Casey R. Cameron, Executive Director	Date:	09/15/2021
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R993-300	Filing ID: 52216

Agency Information

1. Department:	Workforce Services	
Agency:	Rehabilitation	
Building:	Olene Walker Building	
Street address:	140 E 300 S	
City, state and zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 45244	
City, state and zip:	Salt Lake City, UT 84145-0244	
Contact person(s):		
Name:	Phone:	Email:
Amanda B. McPeck	801-526-9653	ampeck@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R993-300. Certification Requirements for Interpreters for the Deaf and Hard of Hearing
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Subsection 35A-1-104(1) of the Utah Workforce Services Code authorizes the Department of Workforce Services (Department) to adopt rules as authorized by Title 35A. Section 35A-13-103 places the Utah State Office of Rehabilitation under the direction of the Department. Section 35A-13-604 directs the Utah State Office of Rehabilitation, Division of Services for the Deaf and Hard of Hearing, to prescribe certification qualifications and prescribe rules governing applications for certification.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule continues to be necessary because it provides certification requirements and disciplinary procedures for interpreters for the hearing impaired. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Casey R. Cameron, Executive Director	Date:	09/15/2021
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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR REVIEW EXTENSION (EXTENSION)** with the Office of Administrative Rules. The **EXTENSION** permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed **EXTENSIONS** for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date.

EXTENSIONS are governed by Subsection 63G-3-305(6).

NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Utah Admin. Code Ref (R no.):	R512-1	Filing ID: 51209

Agency Information

1. Department:	Human Services	
Agency:	Child and Family Services	
Building:	Multi-Agency State Office Building	
Street address:	120 N 1950 W	
City, state and zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Carol Miller	801-557-1772	carolmiller@utah.gov
Jonah Shaw	385-310-2389	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R512-1. Description of Division Services, Eligibility, and Service Access
3. Reason for requesting the extension and the new deadline date:
After review, it was determined that this rule is no longer necessary, and the Division of Child and Family Services (Division) has begun the repeal process. The Division are requesting the extension because the repeal will not be able to be made effective prior to the five-year review deadline. The new deadline is 02/10/2022. (EDITOR'S NOTE: The proposed repeal of Rule R512-1 is under ID 53851 published in the September 15, 2021, issue of the Bulletin.)

Agency Authorization Information

Agency head or designee, and title:	Tracy Gruber, Executive Director	Date:	09/28/2021
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End of the Notices of Five-Year Review Extensions Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Agriculture and Food

Plant Industry

No. 53755 (Amendment) R68-22: Industrial Hemp Research
Published: 08/15/2021
Effective: 10/01/2021

No. 53708 (Amendment) R68-26: Industrial Hemp Product Registration and Labeling
Published: 08/01/2021
Effective: 10/01/2021

No. 53704 (New Rule) R68-37: Industrial Hemp Cannabinoid Product Testing
Published: 08/01/2021
Effective: 10/01/2021

Auditor

Administration

No. 53561 (New Rule) R123-7: Required Governmental Entities' Posting of Financial Information to Transparent Utah, formerly known as the Utah Public Finance Website
Published: 06/15/2021
Effective: 10/05/2021

Education

Administration

No. 53648 (Amendment) R277-726: Statewide Online Education Program
Published: 08/15/2021
Effective: 09/22/2021

Government Operations

Finance

No. 53749 (Amendment) R25-2: Finance Adjudicative Proceedings
Published: 08/15/2021
Effective: 09/21/2021

Governor

Economic Opportunity

No. 53767 (New Rule) R357-40: Broadband Access Grant Program Rule
Published: 08/15/2021
Effective: 09/22/2021

No. 53759 (New Rule) R357-41: Utah Main Street Program Rule
Published: 08/15/2021
Effective: 09/22/2021

Health

Family Health and Preparedness, Emergency Medical Services

No. 53578 (Amendment) R426-4: Licensed Ground Ambulance, Designated QRU, and Designated Nonemergency Secured Behavioral Health Transport Staffing
Published: 07/01/2021
Effective: 09/16/2021

Insurance

Administration

No. 53752 (Amendment) R590-94: Smoker and Nonsmoker Mortality Tables for Determining Minimum Reserve Liabilities and Nonforfeiture Benefits
Published: 08/15/2021
Effective: 09/22/2021

No. 53753 (Amendment) R590-95: Rule to Permit the Same Minimum Nonforfeiture Standards for Men and Women Insureds Under the 1980 CSO and 1980 CET Mortality Tables
Published: 08/15/2021
Effective: 09/22/2021

No. 53754 (Amendment) R590-96: Rule to Recognize New Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities
Published: 08/15/2021
Effective: 09/22/2021

NOTICES OF RULE EFFECTIVE DATES

Judicial Performance Evaluation Commission

Administration

No. 53471 (Amendment) R597-3: Judicial Performance
Evaluations

Published: 06/01/2021

Effective: 09/22/2021

Labor Commission

Adjudication

No. 53751 (Amendment) R602-2: Compensation for
Medical Panel Services

Published: 08/15/2021

Effective: 09/22/2021

End of the Notices of Rule Effective Dates Section